# Property Rights DA

BEST TO READ THIS ALONG WITH THE PROPERTY CP AND NC

Note- this was our core position to read against Kantian affs. The strategy was the counterplan, reasons property rights are more consistent with Kantianism than environmental protections are, reasons the aff has to win solvency to win their Kantian offense, and util offense + util framework.

## CP Version

### Top Level

#### Developing countries should extend property rights to environmental resources and guarantee the protection of these rights

#### Only property rights can solve since it encourages private investments in protecting and not exploiting the environment, while government protections create perverse incentives that increase exploitation, which is an independent case turn

Adler 5 - JONATHAN ADLER Prof. of environmental law at Case Western, writes for the Case research series: [“Back to the Future of Conservation: Changing Perceptions of Property Rights & Environmental Protection” Case Research Paper Series in Legal Studies Working Paper 05-16, July 2005]

The problem with the dominant approach to environmental policy is its reliance upon centralized political mechanisms. The limitations of such mechanisms-whether regulations, fiscal instruments, or direct management of environmental resources-hamper the effectiveness of existing environmental programs. As environmental problems become ever more complex, these limitations will only become more severe. The answer is not greater government control or manipulation of the marketplace, but a greater reliance upon property rights and voluntary arrangements. By encouraging a more efficient use of resources, responsible stewardship, and technological innovation, property rights in environmental resources provide a sounder foundation for the advancement of environmental values than the modem regulatory state.¶ Property-based environmental protection- commonly referred to as "free market environmentalism" 60 or "FME"- rejects the "market failure" model. "Rather than viewing the world in terms of market failure, we should view the problem of externalities as a failure to permit markets and create markets where they do not yet - or no longer - exist." 61 Where environmental problems are most severe it is typically a lack of markets, in particular a lack of enforceable and exchangeable property rights, that is to blame. Resources that are privately owned or managed and therefore are incorporated into market institutions are typically well-maintained. Environmental problems, therefore, are "essentially property rights problems" which are solved by the extension, definition, and defense of property rights in environmental resources. 62¶ Resources that are unowned or politically controlled, on the other hand, are more apt to be inadequately managed. In his seminal essay on the [a] "tragedy of the commons," Garrett Hardin gave an illustration of this principle, stating that there is no incentive for any individual to protect the commonly owned grazing pasture in a rural village. Indeed, it is in every shepherd's self-interest to have his herd overgraze the pasture and before any other herd. Every shepherd who acquires additional livestock gains the benefits of a larger herd, while the cost of overusing the pasture is spread across all members of the village. The benefits of increased use are concentrated, while the costs are dispersed. Inevitably, the consequence is an overgrazed pasture, and everyone loses. The shepherd with foresight, who anticipates that the pasture will become barren in the future, will not exercise forbearance. Quite the opposite: he will have the added incentive to overgraze now to capture gains that otherwise would be lost. Refusing to add another animal to one's own herd does not change the incentive of every other shepherd to do so. The world's fisheries offer a[n] contemporary example of the tragedy of the commons. Because oceans are unowned, nofishing fleet has an incentive to conserve or replenish the fish it takes, but each has every incentive to take as many fish as possible lest the benefits of a larger catch go to someone else.64¶ Efforts to control access through prescriptive regulations do relatively little to change this equation.0 Shorten the fishing season, and the fishing merely becomes more intense. Limit the use of certain gear, and fishermen will simply employ more hands to maximize the catch. Private ownership overcomes the commons problem because owners can prevent overuse by controlling access to the resource. As Hardin noted, "The tragedy of the commons as a food basket is averted by private property, or something formally like it."66 In the case of fisheries, the creation of property rights, whether in fisheries themselves or portions of a given catch, promotes sustainable fishing practices.' With property rights, the incentives faced by fishing fleets are aligned with the long-term sustainability of the underlying resource. As conservation scholar R.J. Smith explains: Wherever we have exclusive private ownership, whether it is organized around a profit-seeking or nonprofit undertaking, there are incentives for the private owners to preserve the resource.... [P]rivate ownership allows the owner to capture the full capital value of the resource, and self-interest and economic incentive drive the owner to maintain its long-term capital value.0¶ For incentives to work, the property right to a resource must be definable, defendable, and divestible. Where property rights are insecure, owners are less likely to invest in improving or protecting a resource. In many tropical nations, for example, the lack of secure property rights encourages deforestation as there is no incentive to maintain forest land, let alone invest in replanting. 69 Where existing environmental regulations undermine the security of property rights, they discourage conservation. The foremost example of this is the ESA, which effectively punishes private landowners for owning habitat of endangered species by restricting land-use. As Sam Hamilton, former Fish and Wildlife Service administrator for the State of Texas, noted, "The incentives are wrong here. If I have a rare metal on my property, its value goes up. But if a rare bird occupies the land, its value disappears."" This economic reality creates a powerful incentive for landowners to destroy present or potential habitat on private land. Thus, in North Carolina, timber owners are dramatically shortening their cutting rotations and cutting trees at a much younger age-at significant economic cost-so as to avoid regulatory proscriptions that could force them to lose their investments altogether.'

#### Empirics confirm this

Adler 5 - JONATHAN ADLER Prof. of environmental law at Case Western, writes for the Case research series: [“Back to the Future of Conservation: Changing Perceptions of Property Rights & Environmental Protection” Case Research Paper Series in Legal Studies Working Paper 05-16, July 2005]

International studies of¶ economic and environmental trends demonstrate that "environmental quality and economic growth rates are greater¶ in regimes where property rights are well defined than in regimes where property rights are poorly defined."'¶ Indeed, the record of the past century should conclusively demonstrate that incorporating resources into the marketplace through the creation and protection of property rights is the surest means of replacing shortages with ample supply, and encouraging [encourages] sustainable development.'0 ' As one looks around the world at which resources are protected and which are imperiled, a clear pattern emerges. Tropical forests, largely owned by governments or left as unowned commons, are in decline; temperate forests, predominantly in wealthy countries and often privately owned, are stable and expanding.02 Fish stocks in the open oceans are declining, while aquaculture booms and fisheries with quasi-property rights in New Zealand and elsewhere maintain sustainable catches. 10 3¶

### Solves Externalities/Tragedy of Commons

#### CP solves negative externalities resulting in more sustainable development

Eaton 7 [(Curtis, Ph.D., Colorado. Professor, Department of Economics, University of Calgary; Allan Ingerson, B.S., LLB, Calgary; LLM, Denver. Associate Dean, University of Calgary; Rainer Knopff, Ph.D., Toronto. Professor, Department of Political Science, University of Calgary. “Property Rights Regimes to Optimize Natural Resource Use -Future CBM Development and Sustainability” NATURAL RESOURCES JOURNAL Vol 47] AT

In a market economy, well-designed property rights will be one key to effectively internalizing external effects. Property rights work best to achieve this when they are exclusive and transferable by voluntary exchange. A property right to an asset is exclusive if all benefits and costs associated with the use of the asset accrue to the owner of the asset. External effects, by definition, signal the failure of exclusivity. Many of the difficult issues raised by unconventional gas development are driven by the failure of exclusivity. In the case of localized external effects, appropriately designed property rights can often achieve the desired internalization of external effects. Property Rights for Localized Effects Two examples -International Paper (IP) and the King Ranch - illustrate how property rights exclusivity internalizes external effects. In each of these cases, landowners' property rights were exclusive with respect to the potential benefits and costs associated with both tourism and forestry/ agriculture, thus encouraging the commercial costs and benefits of both to be internalized. In the case of IP, "one of the largest timber producers in the United States,"23 commercial accounting now focuses not just on the company's traditional timber production but also on the potential commercial value to be derived from recreational or tourist activities on its land. Recognizing "that the relative values of timber and recreation had shifted and that creating new rights for hunting and camping would increase profits for the company.. .the company created and marketed rights to these activities, so that by the late 1990s recreational revenues constituted 25 percent of IP's total profits" 24 in "the 1.2 million acres of timber-producing land in its mid- south region." 2 To realize this significant return on recreational activities, IP had to be more careful about how and where it logged than if the recreational alternative had not been included in its accounting. Because of its broader accounting, IP acquired a strong incentive to log in ways that would sustain viable habitat and recreationally desirable landscapes. The alternative ways of deriving commercial value from the landscape - resource extraction and tourism -turned out to be, if not complementary, at least not mutually exclusive. The famous King Ranch in Texas provides the second example. This ranch, one of the largest in the world, has over time expanded its core cattle operation into a more generalized agribusiness. Indeed, this business has diversified beyond agriculture into industries as diverse as energy exploration,26 publishing,27 retail,2 8 and ecotourism,29 with hunting central to the ecotourism.3° The point here is that, as in the case of IP, paid hunting has become a prominent part of the King business. The Ranch's website advertises its full 825,000 acres as "pristine wildlife habitat" on which it sells hunting leases and by-the-day hunting opportunities.3 ' Like IP, the King Ranch has a strong incentive to conduct its other commercial activities, such as cattle ranching, farming, and energy exploration, in ways that sustain and enhance the considerable income stream generated by "pristine wildlife habitat."32 Because both IP and the King Ranch enjoy a regulatory and property rights context that allows them to sell not only the traditional commercial products derived from their lands (cattle and lumber) but recreational opportunities such as hunting, they have a serious stake in accounting for these different ways of deriving value and in optimizing the balance between them. Had the legal framework prohibited them from selling the relevant tourism opportunities, the recreational cost of less environmentally sensitive ways of conducting other aspects of their businesses would have been an "external effect" for these companies. For example, if IP had conducted indiscriminate clear cutting, the cost would have been borne by others, including unborn generations whose aesthetic and recreational opportunities would have been curtailed, including those who may have sought an opportunity for recreational commerce. Because costs that are internalized are taken most seriously, the full-cost accounting required for sustainable development is most likely when the relevant decision maker effectively internalizes all of the costs and benefits. IP and the King Ranch internalized the relevant costs and benefits because they "owned" and could thus sell recreational opportunities. The situation, however, is more complex in the case of subsurface mineral and energy resources, where the exclusivity principle of property rights is often breached.

### Solves Decisionmaking

#### It also results in agreements that prevents sheer exploitation of landowners

Eaton 7 [(Curtis, Ph.D., Colorado. Professor, Department of Economics, University of Calgary; Allan Ingerson, B.S., LLB, Calgary; LLM, Denver. Associate Dean, University of Calgary; Rainer Knopff, Ph.D., Toronto. Professor, Department of Political Science, University of Calgary. “Property Rights Regimes to Optimize Natural Resource Use -Future CBM Development and Sustainability” NATURAL RESOURCES JOURNAL Vol 47] AT

Missing from that process is the powerful incentive that sustains effective negotiation in a property rights framework: the right of the owner of surface rights on neighboring lands to negotiate before development an agreement pertaining to external effects. While adjacent landowners may rely on the common law torts of nuisance or negligence law for compensa- tion when CBM development has negative quantifiable environmental impacts, in practice this remedy is rarely selected because of the costs of litigation and the asymmetric incentives in any such situation.43 The problem of external effects on other properties in the local neighborhood is best handled by an extension of the property rights approach in which all parties with surface rights within the designated radius of the development have the same kind of transferable veto over development held by the actual development property. Before develop- ment, the developer would be obligated to negotiate an agreement with all owners within some development radius. The agreement would provide for the addressing of development problems.

#### Key to negotiation and solves decision-making

Eaton 7 [(Curtis, Ph.D., Colorado. Professor, Department of Economics, University of Calgary; Allan Ingerson, B.S., LLB, Calgary; LLM, Denver. Associate Dean, University of Calgary; Rainer Knopff, Ph.D., Toronto. Professor, Department of Political Science, University of Calgary. “Property Rights Regimes to Optimize Natural Resource Use -Future CBM Development and Sustainability” NATURAL RESOURCES JOURNAL Vol 47] AT

PROPERTY RIGHTS AND STAKEHOLDER CONSULTATION The advantage of property rights is that they facilitate negotiated agreements among interested parties and thus do not require state intervention. Although more difficult in the case of diffused external effects, appropriately designed property rights can incentivize landowners to act directly as meaningful proxies for the external effects borne by far flung interests. Related property rights might have similar effects. For example, outfitters are often allocated quotas of hunting licenses, in effect a kind of property right that gives them an important stake in outcomes and makes them an important source of relevant information.

### ---Decisionmaking good

#### Process comes before product – the only way to create better policies is to bring the people impacted by decisions into the decision-making process – turns the aff solvency and makes policies more responsive to the needs of citizens

Barter 98 – PhD, Coordinator, Sustainable Transport Action Network for Asia and the Pacific A Rahman, UNCHS (Habitat) Regional Symposium on Urban Poverty in Asia, Transport and Urban Poverty in Asia: A Brief Introduction to the Key Issues, http://www.fukuoka.unhabitat.org/docs/occasional\_papers/project\_a/06/transport-barter-e.html

The Recife Declaration includes a strong emphasis on recognising the fundamental right of the poor to take part in decisions which impact on them. It states that the voices of the poor must be heard (United Nations Centre for Human Settlements (Habitat), 1996). Some governments and experts fear that an openness to participation will hinder decisive policy making. There is a traditional mistrust in transport planning of all community involvement, let alone involvement by the poorest people. However, experiences are showing that such involvement can be constructive and make public policies more likely to be well-considered and enforceable. Meaningful participation in transport planning decisions by stakeholders, with a special effort to hear those who are usually voiceless and powerless, can lead to workable solutions to otherwise intractable conflicts. Poor communities have demonstrated that they can be reasonable when treated fairly and sincerely but are very vulnerable and their range of choices is extremely limited. When consulted in a meaningful way, with the help of experienced NGOs, groups of low-income people have demonstrated the ability to state their interests, to appreciate many of the wider issues and to seek reasonable compromises. Documented cases that illustrate these points include negotiations involving the inhabitants of settlements along Mumbai railway lines and consultations with pedicab (cycle rickshaw) drivers in Dhaka about potential changes to their operating conditions (Gallagher, 1998; Patel and Sharma, 1997). This year a number of NGOs have championed the rights of low-income pedicab drivers in Java who are seeking the right to ply their trade in Jakarta after having been banned since 1989, and have managed to open up a process of negotiation and debate with the relevant authorities. The chances of success appear to be high. These good examples are unfortunately isolated and the documents include a realistic assessment of the enormous effort that will be required to make official agencies more receptive and consultative. The norm is that many communities have seen insincere consultations that merely seek to legitimise unfair actions that harm their communities and which have left them justifiably suspicious and cynical. Hearing the voices of the poor requires proactive effort from the relevant agencies. Non-governmental organisations and networks need to develop a much larger role in this proactive effort in the transport sector as they already have in other sectors, such as in shelter issues (International Forum on Urban Poverty, 1998; Patel and Sharma, 1997). Most of the NGOs and CBOs in Asia that assist poor communities to organise and empower themselves have not yet established strong capabilities to tackle transport issues and to make the connections between transport and other urgent issues for the poor, such as shelter, employment and basic services. The organisations that champion the interests of the poor in higher level policy debates have also sometimes missed the key transport issues that affect low-income people the most. Environmental organisations have taken up transport more often but sometimes in ways that are not sensitive to the needs of the poor. Civil society organisations that specifically champion the modes of transport used by the poor are generally non-existent or weak in most Asian cities (although there are exceptions). If the voices of the poor are to be heard more strongly in transport then decision-makers will need to become more receptive AND civil society will need to develop its capacity to tackle transport issues in a well informed way (and be assisted to do so) (Hook, 1998). One of the key aims of the SUSTRAN network is to help community groups and NGOs get access to the information and assistance that they need to demystify transport issues and to tackle them in a pro-poor way. Without broad-based consultation, the main voices that tend to be heard by government on transport issues are the well-organised and wealthy lobbies for car users, the trucking industry, the motor vehicle industry, the oil industry, and the infrastructure construction industry. Categories of actors and stakeholders in urban transport are numerous and their interactions complex (Dimitriou, 1992; Rimmer, 1986; Townsend, 1995). Transport is one field where public policy clearly does have a major impact upon the outcomes even in low-income settings (Allport, 1995; Barter, 1998, in preparation; Cervero, 1995; Hook and Replogle, 1996; Newman, 1993). Political processes and public participation must occur hand-in-hand with technical planning procedures. Participation is essential in order to balance the effects of market and government failures (Hook, 1998). Hearing alternative voices can also help to overcome the "wind-screen view" of transport problems by many urban transport decision makers. Most politicians, senior planners and transport engineers have little personal experience of using non-motorised transport or public transport as adults. This is particularly acute in cities where there is a strong polarisation between rich and poor. The transport planning professions are also highly male-dominated in most countries. This is a serious obstacle to a gender-aware approach.

#### Citizen participation in decision-making spills over to greater openness and improvements in the planning process

Willson 1 - Professor of Department of Urban and Regional Planning @ California State Polytechnic University Richard, “Assessing communicative rationality as a transportation planning paradigm,” Transportation, http://www.uvm.edu/~transctr/pdf/willson\_article.pdf

The effects of this approach are greater attention to ends (goals), better integration of means and ends, new forms of participation and learning, and enhanced democratic capacity. Because of the educational function of planning, planning documents and presentations do more than document technical analysis – they engage the public in thinking about fundamental questions, explore images, ideals and values, and open up the process to creative participation. Public participation is seen as a part of an ongoing learning process, not an episodic event prior to the adoption of a new plan. Example: The parking planning effort has multiple purposes: 1) to design and implement parking policies; 2) to promote learning about the ridership, fiscal, environmental and social equity goals of the agency; and 3) to build a deliberative capacity among decision-makers and community stakeholders for addressing other strategic transit issues. The planning process helps decision-makers, stakeholders and the public learn about how transit agency goals are realized in specific policies and informs the broader goals of the transportation agency and society. For example, one board member may see free surface parking as the impediment to economically feasible transit-oriented development while another might see it as a basic right of a commuter. The planning process helps them explain their perspectives, search for common ground and agree to tradeoffs. Similarly, discussion about the distributional consequences of alternative parking charges may lead to discussion of broader station access strategies, or even a discourse that redefines the mission of the organization. The parking issue is a way of developing the strategic plan of the organization and can be a catalyst for broader public debate about transportation pricing, transportation equity and the environment. Planning process. As shown in Figure 2, communicative transportation planning does not involve a linear progression from ends to means. Instead, it is an iterative process that transforms the decision environment and the participants themselves. Participants simultaneously consider means and ends. Communicative transportation planning emphasizes listening, conveying, interpreting, mediating and bridge-building between stakeholders – encouraging them to ease their commitment to pre-existing positions and to share interests and goals. It is open to and influences the larger context of societal values, public opinion, institutions and stakeholders. Consequently, communicative planning itself may develop or modify the planning process. Finally, communicative transportation planning encourages a continuous critique about the planning process and its effects. It draws attention to that process rather than using a cookbook-like set of procedural steps for planning.7 Accordingly, communicative rationality involves experimental approaches because developing the planning process is an explicit part of the planning activity.

### Solves Resource Curse

#### The root cause of failures of resources to improve economic growth or poverty is that people don’t have a stable right to those resource to begin with – the CP solves

Soto et al 12 [(Hernando de Soto, Peruvian economist known for his work on the informal economy, president of the Institute for Liberty and Democracy in Peru; and Herman Chinery-Hesse, founder of theSOFTtribe, the largest software company in Ghana; and Ernesto Schargrodsky, Ph.D. in Economics, Harvard University, rector of the Universidad Torcuato Di Tella and was previously Dean of the School of Business) “Private Property Rights” Series of quotes between Soto and Hesse. Povertycure.org, 2012 is last date cited] AT

“When you look at 19th century America or 18th and 16th century Europe, all of a sudden it’ll become clearer that … the thing that broke the back of poverty and privilege in developed countries in the past was when property rights came around and destroyed feudal title.” More from Hernando de Soto Hernando de Soto on the Effect of Private Property Rights in Peru “In the case of Peru you can clearly see that where titling takes place, education is better immediately because more people can get jobs, they feel secure about their homes; they are ready to make more investments in the homes. More kids go to school because many people keep their kids at home just simply to indicate that they have a stake in that place. And now all of a sudden the security is replaced with law. Law has also that function.” More from Hernando de Soto Herman Chinery-Hesse on the Land Problem in Africa “We have a serious land problem here. Nobody’s attacking that, as far as I know. I haven’t heard any NGO. I hear them talking about child labor, gay rights, and so on and so forth. Not to say that they aren’t important. But in the scheme of things, when people need money and a livelihood, we need to focus first on things like property rights so that the land tenure problem is solved, so people can take their ancestral land and borrow money against it to set up businesses and pay tax. That’s where we should be going. That’s where our survival is; that’s where our money is; that’s where our progress will come from.” More from Herman Chinery-HesseHerman Chinery-Hesse on Why the World Bank Should Focus on Private Property Rights“We haven’t got clean title in Ghana. It’s very, very difficult. You buy land, you have to buy it four, five times. Last time I had a meeting in the World Bank, I asked the World Bank officials, ‘Hey, you’ve been working with our government all these years. You know this is at the bottom of our problems, that fundamental unknown, and what are you doing about it? Are you saying for twenty years you just forgot that we have a situation where anybody’s business, anybody’s house can suddenly come into question, and they might just lose their investment and that it wouldn’t encourage people to invest?’ I don’t see that a lot of work has been done there or a lot of progress has been made there.”More from Herman Chinery-Hesse Herman Chinery-Hesse on Private Property Rights as Fundamental to an Economy

### Solves Poverty/Econ

#### Status quo lack of title to the land is the root cause of poverty – a property right to the land solves poverty and jump-starts struggling economies

Soto et al 12 [(Hernando de Soto, Peruvian economist known for his work on the informal economy, president of the Institute for Liberty and Democracy in Peru; and Herman Chinery-Hesse, founder of theSOFTtribe, the largest software company in Ghana; and Ernesto Schargrodsky, Ph.D. in Economics, Harvard University, rector of the Universidad Torcuato Di Tella and was previously Dean of the School of Business) “Private Property Rights” Series of quotes between Soto and Hesse. Povertycure.org, 2012 is last date cited] AT

“The absence of land title absolutely hurts the poorest of the poor. [About] sixty, seventy percent of our people are farmers. Just imagine, if you have ten million farmers who have no title to the land they are farming on. They can’t take it to the bank to get a loan to get farm implements. Whereas if they were allowed to buy the land, it may take them six years of share cropping to then own the land, then they could take that land out to the bank, get a loan, and get a tractor. Now, if you are stopping them from doing this for generations and generations, it’s chronic poverty. You are creating chronic poverty. They need to own their land and trade their land. The good ones amongst them will become large farmers, the ones that are not so good will become medium sized farmers, and the bad ones will end up working for the large and medium farmers. And they’ll have good jobs that pay them, like America, a good job that pays them a good decent wage every month. Maybe they are not entrepreneurial, but they will get a job … You can’t start an economy without ownership not being in question. This is my fundamental.” “An enormously important sanction has just come in from a major policy initiative on slum. This policy initiative was announced 3 years ago, where government said that government will provide property rights to slum dwellers as a way to make India slum-free. What they’re saying is this: that those people who have solved their housing problem, they have illegally encroached upon lands, taken someone lands, we will [instead] provide those lands to people so that they become official, they become legal, and once they become legal, they have the wherewithal and motivation and capability to improve their houses. Yes, State and the government will have to intervene, develop to provide services, hopefully they will provide capital, they will provide loan facility, but if you do that, people will start solving the problem.” “So you are essentially, in my understanding, not building through houses; you are creating a large support for the people in the form of a policy so that they can start solving their problem, they could start a legitimate existence in the cities. They become new citizens.” “Property right is very important. You look upon [slum dwellers] as illegal encroaches. These are the people who are taking over someone’s land illegally. They are unauthorized. They don’t have address. In India, they’re allowed to kind of work… but otherwise you don’t have address in a city, you are not a legitimate citizen. Property right would give them a new citizenship. ” “That citizenship will do two things. They will start living with dignity, because they’re no longer called illegitimate and no longer called illegal and no longer called unauthorized. Second important thing that will happen is this: giving them property right will start the whole second cycle what I call of investments by communities. People are very keen to improve their settlements. They’re very, very keen to see that they’s children live in better house. They are very keen that the children go to school so that their children do not see the same fate, the same conditions that they lived in. They want to get away from poverty. They are very motivated.” “So property rights start the whole process of new citizenship, their foothold on the city, they’re becoming legal, and then creating a situation where they would invest. These poor people, the slum dwellers are not there just for the sake of living there. They are the engines of growth of the cities, their own informal sector. In country like India, 80% of jobs are informal sector. There’s nothing like unemployment. There’s certainly underemployment that is intermittent employment, but they’re employed. They are very hard-working people.” “Once their existence in the cities is safe, once the sword which is hanging on their head, where they could be bulldozed, they could be evicted, they could be thrown out of the city. Once that is gone, they would invest more, not only in their housing, in their occupations, in their business, in their livelihoods, in the way they earn their income.” “The very fact that you’re creating these conditions of their legal state, they will take, that is the most important step in terms of alleviating poverty, because you are empowering them. You are giving them conditions where they could invest more labor, they can invest more capital, they would work harder to earn more, that in the process.” “Not only that, once the security of the property right is given, once the city makes investment in infrastructure like clean water, drinking water, few schools, little healthcare, their health will improve. Better water supply would make more working days available to that. That will add to that income. The health would be much lesser. So all these conditions will start from giving property rights, will lead to improving the condition of the poor significantly.”

#### And it solves by giving them access to the land as collateral

Schargrodsky 12 [(Ernesto Schargrodsky, Ph.D. in Economics, Harvard University, rector of the Universidad Torcuato Di Tella and was previously Dean of the School of Business) “Private Property Rights” Series of quotes between Soto and Hesse. Povertycure.org, 2012 is last date cited] AT

Ernesto Schargrodsky “Hernando de Soto was very influential with his idea that land titling could be a main tool to reduce poverty. The main idea is that there are millions of people in urban slums in the cities around Latin America, Asia, and Africa, and that these people, they cannot use the land that they possess and occupy as a collateral, because of the lack of titles.” “Wealth creation is the true form of poverty alleviation, and this experience of land titling shows that if it allows people to invest more and if it allows the people to educate their children more, that’s a promising way of poverty alleviation.” “I think land titling is a very powerful anti-poverty policy, not through the shortcut of access to credit, but through the positive incentives on investment, on children education, on child health, that it’s going to improve the lives of the future generations.”

#### This also results in improvements in education

Schargrodsky 12 [(Ernesto Schargrodsky, Ph.D. in Economics, Harvard University, rector of the Universidad Torcuato Di Tella and was previously Dean of the School of Business) “Private Property Rights” Series of quotes between Soto and Hesse. Povertycure.org, 2012 is last date cited] AT

“We found that children in the titled houses are more likely to go into secondary school. In Argentina in these areas, most kids go to primary school, so there are no difference in attendance to primary school, but they are more likely to go into secondary and tertiary education. They have a lower school absenteeism. They have better health, for example, better anthropometrics. They show lower teenage pregnancies. So, the next generation show several advantages in the titled parcels. We have a group of kids now in the titled parcels that, one day, they are going to receive a house, an inheritance from their parents. But in addition to that, they were raised in better houses, they were raised in smaller families, and in these smaller families, they got better education and better health.”

### Government Fails

#### Government regulation only disrupts stable market incentives and top-down regulations fail

Heltberg 2 [(Ramus, University of Copenhagen) “Property Rights and Natural Resource Management in Developing Countries” Blackwell Publishers 2002] AT

Fourth, misguided outside intervention, especially by the state, may lead to break-down of traditional management systems. Thus, when colonial and independent governments have nationalised natural resources, it has often led to collapse of existing CPR management systems because local authority structures governing resource use were undermined (Bromley, 1991; Ostrom et al., 1994; Ostrom, 1990). Governments have been unable to implement effective management of the nationalised resources, sometimes leading to severe resource degradation. The failure of govemments as CPR managers is partly caused by government agencies’ lack of detailed local information, reinforced by the fact that the nature of many resources makes central monitoring difficult and costly. Furthermore, when outsiders have imposed new resource management institu- tions, these institutions have often lacked local legitimacy and credibility. Consequently, collective action has not come forward, and pervasive encroachment on resources has often been the result. Policymakers have paid insufficient attention to local institutional, cultural, technical and natural environments and the complex subtleties shaping incentives for informal resource management. Therefore, interventions seeking to improve the resource situation through tenure reform have, on a number of occasions, had adverse effects. Other research has shown, however, that villages that have received substantial external intervention from NGOs and others, have much larger labour contributions to maintenance of common land and water resources (Chopra and Gulati, 1998).

## DA

### Top Level

#### Environmental protection destroys private property rights by limiting individuals’ ability to extract resources.

Adler 05 [JONATHAN ADLER Prof. of environmental law at Case Western, writes for the Case research series. “Back to the Future of Conservation: Changing Perceptions of Property Rights & Environmental Protection” Case Research Paper Series in Legal Studies Working Paper 05-16, July 2005]

The modern environmental movement was born in the late 1960s, a time when many American institutions were viewed with suspicion.10 “You simply can’t live an ecologically sound life in America,” Earth Day organizer Denis Hayes explained, so it was necessary to “challeng[e] the ethics” of American society.11 The ecological wisdom of the time held that saving the earth required new limitations on the rights of private ownership, particularly ownership in land. The Blackstonian conception of ownership as complete dominion had to yield to ecological considerations,12 and broader notions of the social good.13 Indeed, some argued that classical liberalism itself, not just Lockean notions of property, was problematic for environmental protection, and that mainstream environmental policy debates “understated” the tension between liberal values and environmental protection.14 “If, in the view of liberalism, the chief end of civil society is the preservation and protection of property rights, environmental regulation challenges the ideological basis of political order.” 15 Yet the “ecological crisis” required the reconsideration of basic liberal ideals, including basic notions of private property and progress.16¶ Pioneers in environmental thinking, such as Barry Commoner17 and E.F. Schumacher,18 rejected capitalist economics and private property in particular.19 For ecological survival, Commoner counseled that private rights would have to be subsumed for the public good. “If we are to survive, ecological considerations must guide economic and political ones.”20 Others¶ warned that traditional notions of property threatened to “destroy” the environment.21 Environmental law pioneer Joseph Sax argued that the conflict between traditional notions of property and environmental protection suggested “the need for a reconsideration of the notion of property rights.”22

#### The aff trades off with a property rights approach to environmental protection – only this can solve since it encourages private investments in protecting and not exploiting the environment, while government protections create perverse incentives that increase exploitation

Adler 5 - JONATHAN ADLER Prof. of environmental law at Case Western, writes for the Case research series: [“Back to the Future of Conservation: Changing Perceptions of Property Rights & Environmental Protection” Case Research Paper Series in Legal Studies Working Paper 05-16, July 2005]

The problem with the dominant approach to environmental policy is its reliance upon centralized political mechanisms. The limitations of such mechanisms-whether regulations, fiscal instruments, or direct management of environmental resources-hamper the effectiveness of existing environmental programs. As environmental problems become ever more complex, these limitations will only become more severe. The answer is not greater government control or manipulation of the marketplace, but a greater reliance upon property rights and voluntary arrangements. By encouraging a more efficient use of resources, responsible stewardship, and technological innovation, property rights in environmental resources provide a sounder foundation for the advancement of environmental values than the modem regulatory state.¶ Property-based environmental protection- commonly referred to as "free market environmentalism" 60 or "FME"- rejects the "market failure" model. "Rather than viewing the world in terms of market failure, we should view the problem of externalities as a failure to permit markets and create markets where they do not yet - or no longer - exist." 61 Where environmental problems are most severe it is typically a lack of markets, in particular a lack of enforceable and exchangeable property rights, that is to blame. Resources that are privately owned or managed and therefore are incorporated into market institutions are typically well-maintained. Environmental problems, therefore, are "essentially property rights problems" which are solved by the extension, definition, and defense of property rights in environmental resources. 62¶ Resources that are unowned or politically controlled, on the other hand, are more apt to be inadequately managed. In his seminal essay on the [a] "tragedy of the commons," Garrett Hardin gave an illustration of this principle, stating that there is no incentive for any individual to protect the commonly owned grazing pasture in a rural village. Indeed, it is in every shepherd's self-interest to have his herd overgraze the pasture and before any other herd. Every shepherd who acquires additional livestock gains the benefits of a larger herd, while the cost of overusing the pasture is spread across all members of the village. The benefits of increased use are concentrated, while the costs are dispersed. Inevitably, the consequence is an overgrazed pasture, and everyone loses. The shepherd with foresight, who anticipates that the pasture will become barren in the future, will not exercise forbearance. Quite the opposite: he will have the added incentive to overgraze now to capture gains that otherwise would be lost. Refusing to add another animal to one's own herd does not change the incentive of every other shepherd to do so. The world's fisheries offer a[n] contemporary example of the tragedy of the commons. Because oceans are unowned, nofishing fleet has an incentive to conserve or replenish the fish it takes, but each has every incentive to take as many fish as possible lest the benefits of a larger catch go to someone else.64¶ Efforts to control access through prescriptive regulations do relatively little to change this equation.0 Shorten the fishing season, and the fishing merely becomes more intense. Limit the use of certain gear, and fishermen will simply employ more hands to maximize the catch. Private ownership overcomes the commons problem because owners can prevent overuse by controlling access to the resource. As Hardin noted, "The tragedy of the commons as a food basket is averted by private property, or something formally like it."66 In the case of fisheries, the creation of property rights, whether in fisheries themselves or portions of a given catch, promotes sustainable fishing practices.' With property rights, the incentives faced by fishing fleets are aligned with the long-term sustainability of the underlying resource. As conservation scholar R.J. Smith explains: Wherever we have exclusive private ownership, whether it is organized around a profit-seeking or nonprofit undertaking, there are incentives for the private owners to preserve the resource.... [P]rivate ownership allows the owner to capture the full capital value of the resource, and self-interest and economic incentive drive the owner to maintain its long-term capital value.0¶ For incentives to work, the property right to a resource must be definable, defendable, and divestible. Where property rights are insecure, owners are less likely to invest in improving or protecting a resource. In many tropical nations, for example, the lack of secure property rights encourages deforestation as there is no incentive to maintain forest land, let alone invest in replanting. 69 Where existing environmental regulations undermine the security of property rights, they discourage conservation. The foremost example of this is the ESA, which effectively punishes private landowners for owning habitat of endangered species by restricting land-use. As Sam Hamilton, former Fish and Wildlife Service administrator for the State of Texas, noted, "The incentives are wrong here. If I have a rare metal on my property, its value goes up. But if a rare bird occupies the land, its value disappears."" This economic reality creates a powerful incentive for landowners to destroy present or potential habitat on private land. Thus, in North Carolina, timber owners are dramatically shortening their cutting rotations and cutting trees at a much younger age-at significant economic cost-so as to avoid regulatory proscriptions that could force them to lose their investments altogether.'

### Extra Link

#### Environmental regulation inherently trade off with rights

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### Empirics

#### Empirics prove property rights solve

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International studies of¶ economic and environmental trends demonstrate that "environmental quality and economic growth rates are greater¶ in regimes where property rights are well defined than in regimes where property rights are poorly defined."'¶ Indeed, the record of the past century should conclusively demonstrate that incorporating resources into the marketplace through the creation and protection of property rights is the surest means of replacing shortages with ample supply, and encouraging [encourages] sustainable development.'0 ' As one looks around the world at which resources are protected and which are imperiled, a clear pattern emerges. Tropical forests, largely owned by governments or left as unowned commons, are in decline; temperate forests, predominantly in wealthy countries and often privately owned, are stable and expanding.02 Fish stocks in the open oceans are declining, while aquaculture booms and fisheries with quasi-property rights in New Zealand and elsewhere maintain sustainable catches. 10 3¶

### Market Incentives Key

#### The framing issue is one of market incentives – the conflict of the resolution occurs when resource extraction – an economically motivated practice – results in the destruction of the environment - the root cause is market incentives that drive destruction of the environment. Expanding regular market incentives that come with property rights into the commons reverse the tragedy of the commons since the users of the resource directly incur the costs of resource depletion

### Turns Case---Corruption

#### Abridging property turns all aff solvency and impacts – lack of property rights leads to corruption and inequality

Dong 11 [(Bin Dong, The School of Economics and Finance, Queensland University of Technology, Australia; Benno Torgler, The School of Economics and Finance, Queensland University of Technology, Australia) “Democracy, Property Rights, Income Equality, and Corruption” CREMA – Centre for Research in Economics, Management and the Arts, Switzerland and CESifo, Germany, 08/2011] AT

The political economy mechanism provided here is closely related to Persson and Tabellini (1994). The pivotal voter in a country determines the redistribution policy. The redistributive decision therefore hinges on the difference between the income of the pivotal voter and the average income in the society. Unequal societies where the income of the pivotal voter is lower than the average income consequently have more redistribution from the rich to the poor than equal ones. Rent-seeking activities and hence corruption emerges in the allocation of the redistributive tax revenue. Furthermore, in the absence of property rights protection, the rich are likely to gain more from appropriation of the redistributive tax revenue than the poor though all have the access to the appropriation (rent-seeking) technology (Gradstein, 2007). Redistribution thus cannot mitigate income inequality as expected. As a result, high levels of corruption and income inequality might be self-sustaining in democracies with unsecure property rights. Oligarchies, however, may avoid this situation because their “pivotal agents” are often richer than the average. The situation 3 can also be mitigated or even eliminated in democracies with equal income distribution and/or secure property rights. In sum, it can be seen that democracy may breed corruption due to intensive redistribution, especially in countries which lack income equality and property rights protection. Below we will discuss this in detail. It is worth noting that unlike some prior studies, we treat democracy as an exogenous variable in order to focus on studying the relationship between democracy and corruption.

### Rent-Seeking

#### Economic regulation creates monopolies which increases environmental harm since the company has no accountability to its consumers

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If public sector management places environmental resources¶ at the mercy of public sector employees and the incentives they¶ face, it also makes such resources vulnerable to special interest[s]¶ groups that seek to use government power to their advantage.¶ Attempts "to gain a competitive advantage through¶ manipulation of the regulatory process" are "occurring with¶ increasing frequency," according to former Environmental Protection Agency Deputy Administrator A. James Barnes.54¶ This inefficient interference by special interests, known as "rent-seeking," is facilitated by the fact that firms have the ability to receive concentrated benefits through government action, whereas the costs are dispersed throughout the whole of society.55 In the regulatory context, rent-seeking typically' consists of pursuing those government interventions that will provide comparative advantage to a particular industry or subsector. By restricting entry or reducing output, regulations can serve to reduce competition and cartelize an industry and potentially increase returns. Rent-seeking has become rather pervasive in regulatory programs-provisions that benefit specific politically influential interests are relatively easy to hide from public scrutiny in the Code of Federal Regulations. Environmental regulation is a particularly attractive venue for rent-seeking¶ 56¶ because environmental protection is so popular. Special interest policies become more politically palatable when given a green veneer. In other cases, existing regulations are tweaked to advantage one firm or industry over another. Yet as environmental policies get manipulated to serve narrow interests, their ability to meet environmental goals is compromised, if not sacrificed altogether. To take one prominent example, the EPA proposed changes to the reformulated gasoline program in 1994 to increase the use of "renewable" fuel sources by mandating that a minimum percentage of oxygen-enhancing fuel additives from ethanol or ethanol-derived sources. This rule would have done nothing to improve environmental quality. Indeed, the EPA "even conceded that use of ethanol might possibly make air quality worse."57 The EPA knew the problems with the rule, but pushed ahead anyway. Why? Because the ethanol lobby would benefit.5 Unfortunately, this is hardly an isolated example. 9 Worse, as the pages in the Federal Register devoted to environmental regulation proliferate, so will the opportunities and incentives for rent-seeking.

### Turns Case---Backlash

#### Turn: Environmental regulation causes landowner backlash.

Adler 05 [JONATHAN ADLER Prof. of environmental law at Case Western, writes for the Case research series. “Back to the Future of Conservation: Changing Perceptions of Property Rights & Environmental Protection” Case Research Paper Series in Legal Studies Working Paper 05-16, July 2005] AJ

The proliferation of rules governing property use provoked a powerful reaction among landowners who resented being told how they could make use of their property. Property owners across the country formed small grassroots organi- zations to protect private property rights from government encroachment.1 9 Much as local environmental groups often formed to address local environmental con- cerns, property rights groups formed in response to local regulatory concerns. The Maryland-based Fairness to Landowners Committee formed in 1990 in response to federal wetland regulations on the eastern shore,120 while the New Hampshire Landowners Alliance organized in 1991 to prevent the federal government from designating the Pemigewasset a "wild and scenic" river.121 The Davis Mountains Heritage Association was formed in 1989 to oppose the creation of a national park in West Texas,122 while the Adirondack Solidarity Alliance formed to oppose gov- ernment land purchases and regulatory controls in New York's Adirondack Park.123 At the same time, conservative and libertarian public interest legal groups, includ- ing the Pacific Legal Foundation and Mountain States Legal Foundation, sought to overturn government regulations of private property in court.24 While there was no single catalyst for the birth of the property rights movement, and some landowner hostility to environmental regulation dated to the 1960s, the revival of environmental regulation under the first Bush Administration stoked the fires of the property rights rebellion to a greater intensity. 25 Whereas the Reagan administration was largely sympathetic to the plight of small landowners burdened by government regulation, and adopted an executive order to protect property rights from "regulatory takings," 126 its successor sought to be "kindler and gentler" in its approach.127 George H. W. Bush campaigned to be the "environ- mental president."128 Once in office, he appointed a prominent environmentalist, William K. Reilly, to head the Environmental Protection Agency 129 and signed the most extensive and expensive federal environmental statute of all time into law.130 Compared to its immediate predecessor, the Bush Administration was quite sym- pathetic to increases in federal regulation of private land. Federal wetland regulations, and the changing definition of what would constitute a regulated "wetland" under federal law, probably spurred more discon- tent than any other single program.31 The 1989 revisions to the federal wetland delineation manual were probably the proverbial straw that broke the camel's back.132 By redefining what constituted a wetland, the U.S. Army Corps of Engi- neers and Environmental Protection Agency nearly doubled the amount of land regulated under the Clean Water Act.133 In one stroke of a bureaucratic pen, the Bush Administration extended federal regulatory jurisdiction over some 75 million acres of private land. 34 In Maryland's Dorchester County, for example, the amount of land classified as wetlands for regulatory purposes exploded from 275,000 acres to over 1 million acres.13 5 The new wetland definition was particularly controversial because it seemed so irrational to many landowners. Section 404 of the Clean Water Act pro- hibits the unauthorized filling of "navigable waters." 36 This is the statutory basis for federal regulation of wetland development. Yet much of the land covered by the new definition was wet only seasonally, if at all.137 Individuals who had purchased land to build a home or finance retirement suddenly found their ability to use their land subject to government approval.1 38 The Bush Administration enforced the new definition quite rigidly, even seeking criminal penalties in a handful of cases against landowners who violated federal wetland rules.139 In one particularly infa- mous case, William Ellen, an environmental engineer, was sent to prison for filling wetlands without a federal permit when the Army Corps of Engineers changed the definition of wetlands after he had begun construction and received the then- necessary permits.140 The Endangered Species Act also sparked landowner unrest. Section 9 of the ESA prohibited the "tak[ing]" of endangered species, including significant modification of listed species' habitat. The presence of a listed species could freeze the use of private land, barring everything from timber cutting and ditch digging to plowing a field or building a home.141 On the Olympic Peninsula, the Fish & Wild- life Service sought to enjoin a private timber company from harvesting timber on private land, lest it disturb a pair of northern spotted owls nesting in a national for- est almost two miles away.142 In Riverside County, Calif., the ESA prevented pri- vate landowners from discing to clear firebreaks on their own land because the brush was habitat for the endangered Stephens' kangaroo rat.143 The subsequent fires burned human and kangaroo rat habitat alike. As with Section 404, the poten- tial reach of the ESA "caught landowners off guard" and prompted a heated re- sponse.144 While often portrayed as an industry-funded effort to cripple environ- mental protections,1 45 the so-called "backlash" was a genuine grassroots movement focused on the vindication of the constitutional principle that private property should not be taken for public use without just compensation.1 46 As Ann Corcoran, a former lobbyist for the National Audubon Society turned property rights activist observed, "[t]he private-property-rights movement consists of ordinary people- farmers,families,retirees-who think that they can take care of their land as well as or better than the government can, and who are not about to let the public authori- ties confiscate their property." 147

### Key to Freedom

#### Property rights are a prerequisite to all other rights, and ethical theories.

Eagle 13 - Steven J. Eagle, Prof of law at George Mason University in the George Mason Law Review [“A PROSPECTIVE LOOK AT PROPERTY RIGHTS AND ENVIRONMENTAL REGULATION” George Mason Law Review 20 Geo. Mason L. Rev. 725 Spring, 2013.]

A strong system of private property rights promotes economic wellbeing, and also protects indi- vidual liberty and autonomy. Historically, property in land has been a principal source of wealth and also a guarantor individual liberty. The emphasis on property rights enunciated by John Locke and the Whigs “profoundly influenced the founding generation.”141 “By the late eighteenth century, ‘Lockean’ ideas of government and revolution were accepted everywhere in America; they seemed, in fact, a statement of principles built into English constitutional tradition.”142 Summing up this heritage, President John Adams proclaimed: “Property must be secured or liberty cannot exist.”143¶ A contemporary analysis by constitutional historian James Ely concluded that property is the “guardian of every other right.”144 Precisely because “private property is one of our most comprehensive social institutions, . . . it is not a sensible construction . . . to limit it to . . . the protection of the right to exclude only, when the conception from Roman times forward has always included the rights of use and disposition as well.”145

#### Thus, the right to property includes the right to use that property as you see fit.

#### Freedom is the most fundamental right because it is necessary to access and enjoy all others, and property rights provide protection from interference and coercion, so the negative criterion is a perquisite to all other criteria.

### Key to All Rights

#### Property rights undergird all rights – their erosion sets the stage for mass violence and erosion of all freedom

Cooray 13 [(Mark, doctor of Philosophy from Unv of Cambridge; author of 14 books, 65 articles in learned academic journals and over 500 articles in popular journals and newspapers) “Freedom Of The Individual And Property Rights” Ourcivilization.com 8/16] AT

At the time, I not only agreed with this line of reasoning - I still do - and thought it stated the case adequately. However, further study and reflection have led me to a somewhat different conclusion. Property rights are not just another human right; such a statement understates the case. They are much more fundamental than that. Property rights are basic to all rights. This relationship first occurred to me while studying the loss of rights in totalitarian countries. My general conclusion was that the loss of property rights either preceded or accompanied the loss of other rights. This was so in Hitler's Germany. It was so in Lenin's and Stalin's Russia. It has also been the case in other totalitarian countries. It is possible that some property rights could be retained while other rights, such as freedom of speech, freedom of press, freedom of religion, freedom of association and so on, would be severely curtailed or taken away. But it is now inconceivable to me that other rights could be maintained when property rights were gone. This suggests to me that there is a causal connection between property and other rights. The historical connection can be seen not only in countries where rights have been lost but also in countries where they were being established. For example, in England in the seventeenth and eighteenth centuries, real property was being made private and personal. At the same time, there was a movement for substantial freedom of religion. In the wake of the establishment of these came the protection of other rights. 8.2 Freedom Is Indivisible To my knowledge, no general theory has been propounded on the connection between property and other rights. True, the position has been often stated, sometimes accompanied by proofs or arguments, that freedom is indivisible. The meaning of the phrase is that you cannot pick and choose among basic liberties; you must buy the whole package or end up with none. There have also been assertions made that rights such as freedom of press are dependent upon private property. If there is no access to a printing press, the freedom to publish is empty. Statements can be found which imply the central role of property. . . . If the roads, the railways, the banks, the insurance offices, the great joint stock companies, the universities, and the public charities, were all of them branches of the government; if, in addition, the municipal corporations and local boards, with all that now devolves on them, became departments of the central administration; if the employees of all these different enterprises were appointed and paid by the government, and looked to the government for every rise in life; not all the freedom of the press and popular constitution of the legislature would make this country free otherwise than in name. John Stuart Mill, On Liberty, in Utilitarianism, Liberty and Representative Government (London, 1910) pp 112-13. While Mill here entangled the matter with distribution of power among governments, it is reasonably clear that private property is a key factor in his position. 8.3 Natural Rights In general though, little attention has been paid to the relationship among rights. The Founders of the United States tended to equate them, trace them to the same source, and worked to establish those they recognised as important rights. They were particularly concerned with those that government has been given to invading and violating. For example, Thomas Jefferson said: "There are rights which it is useless to surrender to the government and which governments have yet always been found to invade. These are the rights of thinking and publishing our thoughts by speaking or writing; the right of free commerce; the right to personal freedom" E Dumbauld, (ed) The Political Writings of Thomas Jefferson (New York, 1955) p 57. They relied upon a received theory rather than propounding new ones. They commonly referred to those rights which they accepted as natural rights. They were understood to be a gift of God, implanted in the nature of things. As Alexander Hamilton put it, "the Deity, from the relations we stand in to Himself and to each other, has constituted an eternal and immutable law...Upon this law depend the natural rights of mankind ..." R B Morris, (ed) Alexander Hamilton and the Founding of the Nation (New York, 1957) p 9. There were those who held that these rights were altered when man entered into society. The Founders did not concur in this view. Jefferson said that "the idea is unfounded that on entering into society we give up any natural right". Dumbauld, (ed) 'The Political Writings of Thomas Jefferson' op cit p 55. Hamilton declared that "Civil liberty is only natural liberty modified and secured by the sanctions of civil society". R B Morris, (ed) Alexander Hamilton and Founding of the Nation op cit, p 13. What are these natural rights? John Adams stated it this way in the Massachusetts Declaration of Rights: All men are born free and independent, and have certain natural, essential, and unalienable rights, among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness. G A Peek, Jr, (ed) 'The Political Writings of John Adams '(New York, 1954) p 96 Jefferson said: "I believe .. . that a right to property is founded in our natural wants, in the means with which we are endowed to satisfy these wants, and the right to what we acquire by those means without violating the similar rights of other sensible beings; that no one has a right to obstruct another exercising his faculties innocently for the relief of sensibilities made a part of his nature . . . " E Dumbauld (ed) 'The Political writings of Thomas Jefferson' op cit p 49. The United States Constitution along with the first ten amendments, and state constitutions of the time, provide a more complete list of what were reckoned to be the most essential rights, or the ones most likely to be interfered with. Certainly, the right to property was reckoned to be essential, as the above statements show, but the dependence of other rights on it was not made clear or elaborated. 8.4 The Socialist Concept Of Rights It was not many decades, however, before the natural rights doctrine was challenged and began to be supplanted. The utilitarians turned away from the natural law basis of rights to justifying them by the social benefits to be derived from them. Democratic theory tacitly derived rights from the desires of the people. Socialists generally denied that there was any individual right to property, at least to productive property. Democratic socialism, which became the dominant intellectual creed of the twentieth century, not only downgraded, when it did not dismiss private property rights, but also devised a host of new rights. Many of these were in conflict with the right to private property. Perhaps, the United Nations Declaration of Human Rights is the most authoritative compendium of rights to come from the democratic socialist outlook. If it is not the most authoritative, it is surely the most complete. The Declaration runs to 29 articles, and many of these have several sub-heads, which may be thought of as distinct rights. If so, we may be entitled to something like 49 rights according to this document. The right to own property is mentioned in Article 17, but no reference is made either to the right to use it or to have the fruits from it. That is understandable within the context for many of the other rights enumerated are adverse to property rights. However, many of the rights are not only in conflict with property rights but also internally inconsistent. For example, Article 26, which deals with education, declares that "Elementary education shall be compulsory". It goes on to say, however, that "Parents have a prior right to choose the kind of education that shall be given to their children". H S Commager, (ed) 'Documents of American History II ',(New York,1962) p 553. They have the right to choose, we are left to conclude, so long as they choose to have them receive an "elementary education". This brief summary of the development of ideas about rights does not begin to suggest the significance of the changes entailed. The origin of rights had shifted from natural law to society, to people, and inevitably, to government. This development not only focussed attention on the origin of rights but also introduced ideas about what are rights. In the course of it, thinking shifted farther and farther away from any conception of the property basis of rights. It will be my contention here that this almost totally obscured the means for establishing any rights. It is necessary then, to explore the property basis of rights. A good place to begin is with a definition of right. A right is something to which one is entitled by virtue of being a [hu]man (generically). Whether it be called a natural right or a human right, it must be in accord with the nature of man and the human condition. Consistency requires too, that one man's right must not diminish the rights of others. In the final analysis, a right is what is right and derives its standing from the standard of justice. It is doubtful that a complete list of rights could be contrived, for what is right comes down ultimately to equity, to a law deeper and broader than the acts of legislatures and the precedents made by the courts. Right is a matter of principle, and like all principles, it is capable of numerous applications. With that in mind, then, the relationship between property and rights can now be explored. The property basis of individual rights has at least two dimensions. One is conceptual. The other is in the effective ability to exercise rights. Conceptually, all rights are either elaborations or extensions of property rights. For example, a person has the right to order the disposition of his bodily remains after death, by will. The right to one's body is an elaboration of property rights; indeed, it may be the most basic property right. A will is written to dispose of one's property. Hence, the right to order by will what disposition shall be made of the body is an extension of the process. 8.5 Property Undergirds Rights Many rights are so closely tied to property rights that they are virtually indistinguishable from them. For example, the right to buy and sell, or more broadly, to trade freely, is a property right. It is an aspect of the ownership of property. Free speech and a free press are fundamentally property rights. We probably do not ordinarily think of them that way because we think of them as something asserted when there is an attempt to interfere with them. Such a view treats of the exception rather than the rule, and tends to mislead us as to their character. Speaking and other forms of publication are essential and valuable means of conveying information. They are, if you will, items of commerce. That is, many people are paid and even make a living from speaking, writing, and other forms of publication. That is, others want, and will pay for, the information they have to convey. Teachers, preachers, public speakers, journalists, commentators, advertisers and so on, come readily to mind. Speech is a property right in the market; others may not reproduce it without permission and can benefit from it ordinarily only by paying the price for it. Literature is a property, vouchsafed by copyright law. The value of communication is in direct proportion to its accuracy, validity, and truthfulness. To put it negatively, an utterance obtained by compulsion, by twisting the arm, for example, has value only for a masochist. On the other hand, if one is prevented from speaking the truth as he understands it by fear of compulsion, the value of his communication is diminished thereby. Free speech and a free press are the necessary conditions for securing these property values both for speakers and for audiences. 8.6 Individual Rights Are Extensions Of Property Rights There is probably no way of conceiving of individual rights other than as either property rights or extensions of property rights. Our right to life stems from the fact that it is our own (and only) life. Our right to the disposal of our time stems from the fact that it is our own time. Our right to the use of our faculties stems from the fact that they are our own. Remove from them the concept of private property and the claim to them goes as well. The concept of property is not, of course, peculiar to our age. It has probably been around approximately as long as man, and even the lower animals appear to have an instinct for it, if they cannot actually conceive it. Actually, there have been many conceptions of property. Some societies have conceived of property rights in other persons, and have established slavery. Others have conceived of property rights in the services of others, and have established serfdom. Some have so dispersed property rights that hardly anyone could be said to own anything. We appear to be bent on a course in that direction today. Property rights in some societies have been assigned to various classes. It is interesting to note in all these cases that all other rights, to the extent that they were recognized, tended to be parcelled out in much the same way as property rights. This suggests to me that our conception of rights in general is tied to our conception of property. More specifically, as I have said, it suggests that our conception of individual rights is dependent upon a conception of private property. The reason for this, I believe, is that all rights are either property rights or extensions of them. It might be possible to establish what we think of as rights to private property without establishing what we have thought of as other rights. But it is greatly to be doubted that the "other rights" could be established in the absence of rights in private property. That, as I understand it, is much like saying it would be possible to lay a foundation without building a house upon it, but one could hardly expect a roof to stand without walls to hold it up. 8.7 How Rights Are Exercised There is another reason for this connection. Private property is essential to the exercise of individual rights. To turn it around, in the absence of private property, the exercise of whatever may be proclaimed as rights will be dependent upon who controls the property. This latter principle has been well illustrated in the Soviet Union in the matter of religion. The Soviet Constitution proclaims the right to the free exercise of religion. It is very nearly an empty right, however, because churches do not have the private property to facilitate its free exercise. All schools are governmentally owned and run, and religion may not be taught in them. Most seminaries were closed and much of church property confiscated in the wake of the Revolution. (The Kremlin, once the seat of Russian Orthodoxy, now houses the government.) There is a shortage both of clergymen and of church buildings. Missionary efforts are severely circumscribed. Since productive equipment cannot be privately owned, the churches are entirely dependent upon a hostile government for Bibles, musical instruments, prayer books, song books, and other religious paraphernalia. The exercise of religion is clearly a privilege, when it can be done, not a right, in the absence of private property. The same principle has been illustrated in American schools in recent years on a much smaller scale. The First Amendment to the United States Constitution declares, in part, that "Congress shall make no law respecting an establishment of religion, or 'prohibiting the free exercise' thereof. . . " (emphasis added). The Supreme Court has prohibited various religious exercises in the public schools. These prohibitions rely upon the fact (or premise) that the public schools are governmentally owned and operated. The courts have said, in effect, that we may freely exercise our religion on private property, but not on that which is governmentally owned. Its exercise in the public schools was a privilege which has now been withdrawn. But the exercise of any right requires the use of property. Without real property, there is no place to stand, sit, lie, walk, ride, or do anything. The making of a speech requires a platform from which to speak. The publication of a book requires a printing press, of course, but much more besides. There must be a desk at which to sit or stand, pen with which to write, paper on which to write, boxes in which to place the manuscript, printing ink and paper, a store in which to display the book, and money with which to buy it. Freedom of assembly requires for its exercise a place within which to assemble. The right to the use of one's faculties depends upon property on which to use them. It is true that property often serves a humble and unobtrusive role in the affairs of men. Frequently, it has only a subordinate part to play. Most of us would agree, I think, that the soup is more important than the pot in which it is cooked, the speech more important than the platform from which it is delivered, the sermon more important than the pulpit, the painting more important than the canvas, the words more important than the paper on which they are printed, and the man more important than the ground on which he treads. From such evaluations, we may conclude that property should be downgraded, that if there is a right to it, it should be a right made subordinate to all others. We are apt to do much more than ignore the obvious when we think in this way. The obvious is that without the container we can make no soup, without a place to stand there can be no speech, without a canvas (or other backing) there can be no painting, without the paper the words cannot be assembled, and without the ground the man has no place to walk. 8.8 Use Subordinates Property We ignore something more subtle and possibly more profound than this. We ignore the fact that it is the cook who subordinates the pot with his soup, that it is the preacher who subordinates the pulpit with his sermon, that it is the artist who subordinates the canvas with his painting, that it is the writer who subordinates the paper with his composition, and that it is the man who subordinates the ground by walking upon it. Every use by man of property is a subordination of it. When a house is built upon land the land is subordinated to that purpose. The farmer who clears, plants and tills the soil subordinates it to his purpose. From these and other considerations, including a mass of historical evidence, I conclude that government as a mechanism cannot act to subordinate or downgrade the importance of property. Government as lawmaker is a mechanism. All direct efforts by government to place property in a subordinate place will tend to have the opposite effects. Let us take the extreme case for illustrative purposes. Suppose that government confiscates all property, or as much of it as is practical. This will magnify the importance of property rather than reduce it. 8.9 Property Insecure When Government Intervenes The reason for this should be apparent. Man[One]'s necessity for property is absolute; his [one’s] survival and all activities depend upon it. When government has control of it all, man's concern with it becomes preponderant for his access to it is no longer secure. Not only does it magnify the importance of property but also of government. Total control over all property becomes the means for total control over men. The law which disposes property in this situation also disposes men. Indeed, the wedding of property to government turns the control over things into control over men. What may start out as an effort to subordinate property ends up as the subordination of man. There are those who suppose that a government which has taken away the right to any significant private ownership of property could, nonetheless, confer a variety of individual rights upon the people. Indeed, there are many westerners who believe that the Soviet Union, for example, could confer freedom of speech, freedom of the press, and freedom of religion, say, on the people within its bounds. It could not do so and retain its control over all property. Above all, it could not establish these freedoms as rights. The most that a government could do would be to lay down rules or rights for access to property. To call such access a right, however, is a misnomer; it can at most be only a privilege, revocable at will, and available at the behest of those who have the power. In any case, in the absence of property, there are no means for contending with government. It is of little avail to have money in the bank, if the government owns the bank and can confiscate the funds of those who may choose to oppose it. 8.10 The Rules Of The System Government cannot create rights. It can recognise them. It can provide a legal system, within which rights can be defended. It can come to the aid of those whose rights are threatened. The property basis of rights indicates yet another role government can play, and it is a crucial role. Government can establish what property system will prevail among a people. It can determine who may own it, the extent to which it may be owned, whether and how it may be bequeathed, and so on. By the system it establishes for property, it will largely determine also what, if any, rights there can be who may enjoy them, and the distribution of them. For example, if it establishes a class system of property control, as there was in Medieval Europe, it can only establish rights as belonging to classes. If it establishes bureaucratic control over property, then such rights as there may be will belong mainly to the bureaucrats and politicians. There may be a natural right to the private ownership of property. I believe there is. It arises in this way. A person who uses his own materials, his energy and ingenuity, and his tools, to construct something is the rightful owner of it. It follows, too, that a person who contributes any of these elements to make some article of use owns that portion of it appropriate to his contribution. (That he may have agreed to the disposal of his interest for a consideration is but an elaboration of the principle). Nor do I doubt that the private ownership of land is the most effective means of securing their other property to owners, though the right to land does not arise naturally. My main point here, however, is somewhat different from this. It is that there is something like a natural law of relationships between property and other rights. This law has nothing to do with the relative value we may assign to various rights. Nor can it be altered by any determination of ours as to what rights should have pre-eminence. The law is not causal in nature; rather, it is consequential. That is, the law does not cause us to adopt any particular course of action, but it does determine the effects once the direction has been taken. Indeed, that is my understanding of all natural law as it applies to man. 8.11 All Rights Depend On Property The law may be stated in this way. All rights are dependent upon property. They are dependent upon property for their conception, their delineation, and their exercise. It follows from this that the system of property ownership will determine what rights can be effectively established within a society. Since a right cannot be firmly established unless it is tied to a property base, changes in the property system will tend to be reflected in the rights that can be exercised And the right of the individual to the ownership of private property is essential to the establishment of individual rights. Even those asserted rights which are in reality government privileges masquerading as rights depend on property. For example, the United Nations Declaration of Human Rights asserts that "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing, and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age, or other lack of livelihood in circumstances beyond his control". Food, clothing, shelter, medical care, and so on are certainly property. Thus, the "rights" named depend on property for their exercise. In these cases, however, it is the property of others that is involved rather than that of the claimants. If governments establish these "rights" they must fulfil the claims by confiscating the property of those who possess it and conferring it upon the claimants. That such action is an assault upon private property there should be no doubt. That governments which simultaneously assert the right to private property and then confiscate it to fulfil other rights have adopted contrary principles there should be no doubt. Their assertions of "rights" are in conflict with each other. But my main point is that anything which is established as a right depends on property.

## Theory Frontlines

### It’s not Topical

#### Property rights approach is contrasted with environmental protection

Epstein 9 [(Richard, James Parker Hall Distinguished Service Professor of Law, The University of Chi- cago; Peter and Kirsten Bedford Senior Fellow, the Hoover Institution) “PROPERTY RIGHTS, STATE OF NATURE THEORY, AND ENVIRONMENTAL PROTECTION” New York University Journal of Law & Liberty 4:1] AT

The expanded definition of possession, which makes permanent ownership possible, also has powerful positive implications for environmental protection.19 Its long time horizons allow own- ers to make intelligent choices between investment, consumption, and saving, just as Blackstone predicted.20 A farmer who would sow seed could now harvest the crops. As owner of both crops and the land, he fully internalized any decision to compromise the value of the land to increase crop yield. No one has an incentive to trash the land because he cannot assure his use of it tomorrow. The environmental soundness of the temporal decisions of private owners is evident when one looks at the harvesting programs al- lowed today on government-owned land.21 Commercial firms have a built-in incentive to clear-cut on public lands because they do not own the long-term interest and any reduction in land value falls on the public at large. The same timber companies operate more prudently on their own private lands where the needed in- ternalization takes place as a result of longer-time horizons.22 If these companies cut down timber prematurely, they will pay the price on their own private lands. Should timber companies invest the net cash received from premature timber in risk-free securities, this return would always be less than the anticipated increase in value from allowing the timber to mature. The point here is simple but critical. Securing environmental protection by having environmental laws that are specifically addressed to that end is not the only way to respond to temporal challenges. In some contexts, the correct definition of property rights can also create a general improvement.

#### More evidence – at best environment protection refers to state or regional government, not individuals

World Bank [“Environmental Regulations and Standards” World Bank Group] AT

Many countries have a national environmental protection agency (EPA). In some cases, for instance India, environmental protection responsibilities are at least partly devolved to the state/ regional/ provincial level. These agencies and departments are responsible for all aspects of the environment; regulation of sanitation and wastewater management activities is just one of their duties. In some cases, for instance Pakistan, the EPA is responsible for sanitation policy. National environmental protection bodies often set national environmental quality standards, which in turn are the responsibility of state or provincial environmental agencies to enforce. In some cases, the detailed definition and implementation of standards is delegated to state EPAs, or to river basin or watershed management boards, which are responsible for water quality within a defined watershed.

## Frontlines

### A2 Collective Property Rights

#### Government, and collective rights over resources is illogical. Any justification that gives the state rights over resources collapses to a theory that endorses private property rights.

John Exdell Prof. of Philosophy Kansas State University in Ethics [“Distributive Justice: Nozick on Property Rights” Ethics, Vol. 87, No. 2 (Jan., 1977), pp. 142-149]

The doctrine that land and resources are collectively held stands as the most ¶ prominent rival to Nozick's theory. If this alternative proves to be indefensible, ¶ Nozick's position is strengthened considerably. Nozick himself raises only one objection¶ to the idea of communal holdings. He addresses proponents of the ¶ doctrine with the following challenge: "We should note that it is not only persons ¶ favoring private property who need a theory of how property rights legitimately ¶ originate. Those believing in collective property, for example those believing that ¶ a group of persons living in an area jointly own the territory, or its mineral ¶ resources, also must provide a theory of how such property rights arise; they must ¶ show why the persons living there have rights to determine what is done with the ¶ land and resources there that persons living elsewhere don't have (with regard to ¶ the same land and resources)."" Nozick is asking here that adherents of the ¶ communalist view explain, for example, how [can] the American people can claim the ¶ Kansas wheat fields as their own. Why should we not say instead that this treasure ¶ belongs, say, to the people of Venezuela? One may be tempted to reply: "The ¶ American people can claim the wheat field because they are the ones who have ¶ invested their lives and fortunes in the development of the land and resources ¶ within their national boundaries." To take this view, however, is to accept[s] the ¶ Lockean principle of acquisition. And then one can be forced to concede that it is ¶ not, after all, the American people who are entitled to the Kansas wheat fields, but ¶ those individuals who did in fact invest their labor in the development of these ¶ lands, or who purchased them from those who did. Thus it is difficult to see how ¶ we can reject a Venezuelan claim to American natural resources without accepting ¶ a principle that justifies private ownership. Communal ownership is squeezed out ¶ of the picture. ¶

### A2: Regulation Can’t Solve

#### Government environmental protection legislation can never solve environmental harms.

JONATHAN ADLER Prof. of environmental law at Case Western, writes in the Harvard Journal of Law and Public Policy, 2001 [Johan Verheij Memorial Professor of Law and Director of the Center for Business Law & Regulation at the Case Western Reserve University School of Law, where he teaches courses in environmental, administrative, and constitutional law. Law Clerk, Hon. David B. Sentelle, United States Court of Appeals for the District of Columbia Circuit. “FREE & GREEN: A NEW APPROACH TO ENVIRONMENTAL PROTECTION” Harv. J. L. & Pub. Pol'y 653 2000-2001]

Conventional environmental policymaking presupposes that only government action can improve environmental quality. In this view, environmental problems arise from "market failures" that produce "externalities." Government regulation is needed to correct environmental concerns that the market has failed to handle because they are "external" to the price signals that regulate marketplace transactions. To say that the market has failed simply means that human activity has generated an environmental impact that is not accounted for in the price of that activity. Thus, the conventional paradigm of environmental policy justifies the regulation of all activities- from driving a car to turning on a light bulb -that have an impact on the environment that is not factored into the cost of the product or service. Economic central planning may be intellectually and historically discredited, but the "market failure" [this] thesis justifies environmental regulatory control of just about everything. As a result, current regulations tell landowners where they can build a home or plant a garden and instruct businesses on how best to manufacture goods and handle byproducts. Indeed, the federal government has passed environmental regulations governing everything from the chemical composition of gasoline 6 to the design of home appliances, including washing machines and toilets.37 As environmental analyst Richard Stewart observed, "the system has grown to the point where it amounts to nothing less than a massive effort at Soviet-style planning of the economy to achieve environmental goals."38¶ The dilemma for policy makers is that ecological central planning cannot succeed any better than its economic cousin. Indeed, the likelihood of long-term success is even less in the environmental context; planning the "production" of air quality or other ecological "goods" is orders of magnitude more complex than planning the production of shoes or wheat. Centralized regulatory agencies are ill-equipped to handle the myriad ecological interactions triggered or impacted by private activity. No doubt the first generation of environmental regulations produced some significant gains-just as the Soviet economies once appeared productive.39 Over time, however, every centrally planned economy collapsed under its own weight. As centralized environmental regulations reach their limit, they too begin to falter.¶ In the Soviet system, further gains in production were achieved for a time through the reliance upon tradable quotas and other efforts to design a "market socialist" system.40 Similar proposals are forwarded today to add market incentives to the existing regulatory infrastructure. Nonetheless, most environmental analysts recognize that federal regulatory policies are too costly and ineffective and cannot be relied upon into the future.4 The problem is not merely one of regulatory design; it lies at the core of the current environmental approach.¶ Under the conventional approach to environmental policy, federal regulators who are located in or at least are responsible to Washington identify the greatest environmental concerns for the nation as a whole. Next they must identify the causes of these problems, and the proper solutions. Regulatory strictures must be designed to account for the myriad differences between industries, communities, and ecosystems. Monitoring¶ and compliance systems must be developed to ensure that¶ standards are met and dictates are obeyed. Because the federal¶ government itself cannot be trusted, additional measures are¶ necessary, including strict legislative deadlines, private "citizen¶ suit" provisions that can force the government's hand, and "parallel" liability systems to impose additional costs upon¶ noncompliant firms.' It does not end there. As circumstances change, the whole system must be revised to take into account new factors by incorporating new environmental threats into the system without forgetting to address the old.¶ Such a system cannot work because each and every step¶ [it] requires more information than can be realistically gathered or¶ processed. Environmental problems are not uniform, nor are¶ their solutions. The carrying capacity of a given pasture or¶ stream or the vulnerability of a given ecosystem to disruption¶ changes with time and place. One river may suffer from¶ excessive nutrient loads, another from a deficiency. Smog in¶ one city may be due to exorbitant levels of nitrogen oxide¶ ("NOx"); in another, NOx controls may actually increase smog¶ formation.43 As a result, centralized environmental regulation¶ is inherently limited by "the inability of central planners to¶ gather and process the information needed to write directives¶ appropriately responsive to the diverse and changing¶ conditions of different economic actors; and the failure of¶ central planning commands to provide the necessary incentives¶ and flexibilit4y4 for environmentally and economically beneficial innovation. 1

### A2: Do whatever you want with property

**1. I’m glad the affirmative brought this up, this is one of the main reasons to prefer the negative advocacy. Prescriptive regulations are ineffective at stopping those who abuse the environment and harm others. A system of property rights provides recourse for those who harm others in the way they use their property**.

Jonathan H. Adler [“CONSERVATIVE PRINCIPLES FOR ENVIRONMENTAL REFORM” Case Research Paper Series in Legal Studies Working Paper 2013-9

April, 2013.]

#### Conservatives have traditionally emphasized the importance of personal responsibility.113 This principle is no less important in environmental policy than it is in other contexts**. Individuals** and corporations alike **should be held responsible for the environmental harms** that **they** **cause**. In short, polluters should pay for the consequences of their polluting activities. **At the same time, neither should be subject to prescriptive regulations due to the bad actions of others.** Broad drift-net- style **regulatory edicts** that impose burdens or mandates on large sectors of the economy may be easy to administer, but they **are not a** particularly **efficient** or equitable **means of controlling pollution**. A small number of individuals or firms may well be responsible for a disproportionate share of emissions or environmental harms, and environmental policies should be designed accordingly.114 Wherever possible, environmental regulatory efforts should focus on controlling or sanctioning those who cause actual environmental harm.¶ In many respects, the principle of **making the polluter pay is** merely **an extension of the protection of private property rights**. For centuries it has been well understood that **an individual landowner’s right to make productive use of her property does not entail the right to prevent her neighbors from doing likewise. This principle is the foundation of the common law doctrine of nuisance**.115 Where the deposit of waste or residuals onto **private property** is consented to by the owner and the physical effects of such disposal are contained on the property, there may be ecological harm, but no pollution.116 Thus pollution control can be understood as preventing **[prevents] the forcible imposition of a waste or emission by one person onto the person or property of another**. Waste itself is not pollution.

#### 2. Yes, people can do what they want with their property but the incentives in the negative case mean that people will protect their resources.

#### Right now environmental and it is not working-their aff proves this. Overall my evidence shows that owning property makes it more likely that protect resources, even if outliers exist.

#### Private property solves. A system of private property facilitates the punishment individuals who use their property to harm others. Our common law tort system proves.

### Economy Turns

#### Allowing owners property rights, meaning the rights to extract as they see fit, leads to better environmental outcomes, higher growth, and lower poverty.

Rowena Maguire of the Institute for Sustainable resources writes for the New Zealand Centre for Environmental Law in 2009 [Faculty of Law/ Institute for Sustainable Resources, Queensland University of Technology, “The function of property in creating an effective legal regime for trade in environmental offsets” New Zealand Centre for Environmental Law Conference 2009, 16-18 April 2009

Market-based approaches to environmental management require the development of property rights in environmental resources. This is because means ownership. According to this line of reasoning once ownership / property rights are established incentives are created to manage and care for the environmental value to which the property rights attach. Environmental degradation can therefore be viewed as an example of a market failure.3 If this is accepted, then it could be suggested that the creation of property rights in environmental resources would result in an economic value being attributed to these environmental values, which in turn means that an incentive exists to manage and look after this environmental value.4 Property rights therefore provide the holder of the rights with a sense of security which in turn acts as an incentive for better management or protection of the interest.¶ In support of a market approach are case studies which demonstrate a correlation between weak property rights and lack of growth and development.5 There are examples of countries failing to define and enforce property rights over land, buildings and other resources and a corresponding result [in] of poor economic growth and persistent poverty.6¶ Markets rely on secure and clearly defined property rights. The definition process must clarify ownership, duties, privileges and rights associated with the natural resource interest. Furthermore markets require the development of institutions and the establishment of processes for the institution to follow. Property rights determine the bargaining power of natural resource users and as mechanisms for pricing of natural resources must be accompanied by a review of property rights arrangements.7¶ A report authored by the Secretariat to the Convention on the Biological Diversity has suggested that:¶ “It is well established that the existence of complete, exclusive, enforceable and transferable property rights is a prerequisite for the efficient management of natural resources. This is because rights must be complete and exclusive to avoid disputes over boundaries and access. They must be enforceable to prevent other from usurping them and they must be transferable. The effect of incomplete property rights shows up most clearly in the lack of incentive to invest in conservation and sustainable land uses”.8

#### Environmental regulation kills the economy and makes the environment worse.

JONATHAN ADLER Prof. of environmental law at Case Western, writes in the Harvard Journal of Law and Public Policy, 2001 [Johan Verheij Memorial Professor of Law and Director of the Center for Business Law & Regulation at the Case Western Reserve University School of Law, where he teaches courses in environmental, administrative, and constitutional law. Law Clerk, Hon. David B. Sentelle, United States Court of Appeals for the District of Columbia Circuit. “FREE & GREEN: A NEW APPROACH TO ENVIRONMENTAL PROTECTION” Harv. J. L. & Pub. Pol'y 653 2000-2001]

¶ Economic progress is absolutely essential to environmental progress. Environmental protection is a good, and like all goods it must be purchased. A healthy economy is necessary to finance environmental improvements. While many environmental activists perceive a conflict between economic growth and environmental progress, the opposite is true. Sewage treatment facilities and other environmental improvements are not free. Moreover, a significant body of¶ literature has found a correlation between improvements and several measures of environmental quality. Not only are wealthy communities healthier than poor communities, but they also tend on average to be more concerned about upholding environmental values as well.¶ Wealthier societies [they] have both the means and the desire to address a wider array of environmental concerns. 31 Economic growth fuels technological advance and generates the resources necessary to deploy new methods of meeting human needs efficiently and effectively. Thus, wealthier societies tend to provide for human needs in a more environmentally sound manner. "Countries undergo an environmental transition as they become wealthier and reach a point at which they start getting cleaner."132 This occurs first with particularly acute environmental concerns, such as access to safe drinking water and sanitation services. As affluence increases, so does the attention paid to conventional pollution concerns such as fecal coliform bacteria and urban air quality.133¶ In much the same way that wealthier societies become cleaner, "wealthier is healthier."' In other words, as income ,increases, mortality and morbidity decline. 135 Conversely, "when national income falls, there often is a significant increase in mortality and a decline in health status."36 Expenditures on regulatory compliance are rarely wealth enhancing, and therefore increasing regulatory costs can reduce gains in public health.'37 As Justice Stephen Breyer observed, "[a]t all times regulation imposes costs that mean less real income available to individuals for alternative expenditure[, which] itself has¶ adverse health effects."38¶ Wealthier societies are not only cleaner and healthier; they¶ are also more willing and able to devote resources to environmental concerns. Public support for environmental measures, both public and private, correlates with changes in personal income. 39 In economic jargon, "[w]ilingness to pay for environmental measures.., is highly elastic with respect to income." 4 ' Thus, it should be no surprise that donors to environmental groups tend to have above average annual incomes. Members of the Sierra Club, for example, have an average household income more than double the U.S. average.' 41¶ In the aggregate, environmental regulation can work against continuing environmental progress by diverting tens of billions of dollars, if not more, away from wealth-creating activity. Insofar as regulation reduces economic growth by diverting investment and human energies away from productivity, it will retard environmental progress. While this is true in the U.S., it is especially true in the poorest of nations."4 Therefore, environmental policy makers must always be conscious of the costs of environmental measures, as increased compliance costs can come at the expense of environmental improvement.¶

### Squo regulations

#### The affs description of environmental problems proves that protection only makes the situation worse. Also, this theory has crowded out any private ownership of resources.

OMULI IWERE of the Institute of Environmental Waste Management and Assessment [“WHAT EFFECT DOES THE OWNERSHIP OF RESOURCES BY THE GOVERNMENT HAVE ON ITS PEOPLE: A CASE STUDY OF NIGERIA?” C.A.R. Vol. 11. 2004]

The National Ownership Theory. This theory is found in most countries today. It advocates the vesting of complete and total ownership of petroleum resources [by] in the government of the state. It is an effective theory in terms of attracting foreign direct investment for countries. [In] Countries such as Nigeria, South Africa, Bolivia, Venezuela and China utilise the National Ownership Theory.¶ The South African mineral law6 provides that “Mineral resources are the common heritage of all the peoples of South Africa and the State is the custodian thereof for the benefit of all South Africans”. While the Chinese mineral law7 provides “Mineral resources shall be owned by the State. The State’s ownership shall be exercised by the State Council...” They all reflect that control of the minerals is solely in the hands of the government.

### A2 Topicality: The negative does more than the res calls for by reassigning property rights

#### 1. Ownership is inherent to regulation. My evidence said that the reason the government owns the land is that it was necessary to have regulation efforts in the first place.

#### 2. Their argument ignores the fact that environmental protection always violates property rights. Environmental regulation makes all property rights go away-even ones we already recognize. For example, if I own land I can do what I want with it like mow the lawn, or build a tree house, but if I find oil in my backyard and I’m not allowed to do what I want with it, all previously existing property rights I had are now gone.

### A2 Anything regarding the land being owned by the government(e.g. who will they give it to, how will it happen, is it feasible you catch my drift)

#### 1. Prior to environmental protection movements, people privately owned the land. It’s happened before, I don’t have to show how the reversal will happen.

#### 2. This is already happening now-the government can give control of the land over to indigenous populations. And if there is no obvious group the government can sell rights to the land. They can have regulations etc. to make sure corporations aren’t buying the land.

### A2: Why do corporations like Exxon Mobil care when they can just go buy more land somewhere else-type arguments.

#### 1. My opponent is misunderstanding this argument. I’m saying when the property is now owned, these companies or people have a stake in the long term value of the resource and environment. They want to extract in a way to maintain the resource into the future so that they can get a long term benefit. This can be illustrated through the example of owning a house versus renting a house. If I own a house, I am incentivized to do things like adding a pool and fixing the electrical system, whereas if I’m only renting I don’t feel the need to do that.

## Free Markets Good

All of this was just Daniel Tartakovsky’s free markets good framework from the health care topic.

### Delegation of Power Framing

### Gov Bad

### A2 Markets Risky

### A2 Equality

# Property Framework

Shortest possible version is 1:30, longest is 4:00. Specifics of each argument:

-Don’t read first section of argumentative ethics against frameworks that already answer that question such as constitutivist arguments

-Foundation of all rights is good against util since it also is a util impact. Can read systemic 1st too with it or rule util > act util

-Moral problem is good against all frameworks

We later used this same property rights framework on many future topics as well. As we used it more often, it was edited heavily – this is a very preliminary version of the framework.

## Argumentative Ethics

### Preamble…

#### Establishing an ethical theory is problematic since

#### the multiplicity of moral perspectives and theories of knowledge means any ethical justification is suspect and therefore cannot ground our obligations since it can reasonably be questioned by someone who disagrees with it even if it is more likely to be true. And

#### Other groundings can be questioned until proven to rely on assumptions that can’t be proven, and that we believe only by chance, which cannot be the foundation of a moral theory because that would undermine the universally action-guiding nature of morality

### Axioms

#### For a theory to generate obligations, it must be grounded in axioms that are by definition uncontestable, since otherwise a theory would have no validity since its starting assumptions would themselves be suspect. Only argumentative ethics provides this grounding since performative contradiction establishes axiomatic truths that are an uncontestable ground for action

Zimny [(Daniel) “Ultimate Foundation of Private Property, Part I: Argumentation Ethics” Daily Anarchist, December 20th, 2013] AT

However, I must contend that it is not a consequence of the fact that people cannot rationally deny them that makes such truths absolute. It is precisely the opposite; that such truths cannot be rationally denied is a consequence of their being absolute. The reason that axioms are what they are is that no further deduction is possible past a particular point—the axiom itself. As such, axiomatic truths are ultimate givens. No further reasoning can explain the fact that action is purposive behavior. Because of its axiomatic nature, then, its implications pervade all action. This is precisely what leads anyone who attempts to deny them into a performative contradiction. A man [one] who says, “I am not acting,” therefore must performatively contradict him[one]self, for he is ipso facto acting purposively. The role performative contradiction is such that it can be used as a tool to detect or discover axiomatic truths. It does not establish them as such.

### Core

#### Argumentative ethics is the starting point of ethical theories because it is a limit on what things are logically possible to argue. Appeals to theories of knowledge or preconditions for ethics themselves assumes some principles of argumentative validity since they must be argued for to be established in the first place. For example, ethicists must assume that arguments should have warrants for a coherent discussion to even begin, and even an ethical theory attempted to deny the validity of reason must use reason to reach that conclusion.

#### Outweighs---

#### Moral reasoning itself presupposes the undeniability of proof by argumentative contradiction since allowing for a contradiction makes logical justification impossible since you could just avoid drawing the only possible conclusion from one premise

#### The context of a debate round presupposes certain undeniable conditions, such as the right of both parties to speak – denying this, even if your argument is logically valid, is literally impossible

#### It is the ultimate motivation because a rational agent by definition cannot engage in a performative contradiction without losing the status of being rational.

#### Argumentative ethics means there must be an intent-foresight distinction since denying it would imply that your intent of an action isn’t relevant, but that denial is itself a willful act influenced by intent and would thus be a performative contradiction

#### [Bostrom/moral uncertainty] Takes out moral uncertainty arguments – since it’s not contestable, it

#### Provides a solid basis of morality that makes moral uncertainty impossible

#### Provides a better way to resolve moral uncertainty since its denial is contradictory and must thus appeal to all moral agents

#### Argumentative ethics implies a right to self-ownership of our own bodies and property.

Hoppe [(Hans-Hermann, distinguished fellow at the Ludwig von Mises Institute and professor of economics at the University of Nevada) “Rothbardian Ethics” May 20, 2002] AT

Moreover, secondly and positively it follows from the a priori of argumentation that everything that must be presupposed in the course of an argumentation — as the logical and praxeological precondition of argumentation — cannot in turn be argumentatively disputed as regards its validity without becoming thereby entangled in an internal (performative) contradiction. Now, propositional exchanges are not made up of free-floating propositions, but rather constitute a specific human activity. Argumentation between Crusoe and Friday requires that both possess, and mutually recognize each other as possessing, exclusive control over their respective bodies (their brain, vocal chords, etc.) as well as the standing room occupied by their bodies. No one could propose anything and expect the other party to convince himself of the validity of this proposition or else deny it and propose something else, unless his and his opponent's right to exclusive control over their respective bodies and standing rooms were already presupposed and assumed as valid. In fact, it is precisely this mutual recognition of the proponent's as well as the opponent's property in his own body and standing room which constitutes the characteristicum specificum of all propositional disputes: that while one may not agree regarding the validity of some specific proposition one can agree nonetheless on the fact that one disagrees. Moreover, this right to property in one's own body and its standing room must be considered a priori (or indisputably) justified by proponent and opponent alike. For anyone who wanted to claim any proposition as valid vis-à-vis an opponent would already have to presuppose his and his opponent's exclusive control over their respective body and standing room simply in order to say "I claim such and such to be true, and I challenge you to prove me wrong." [So much for John Rawls' claim, in his celebrated Theory of Justice, that we cannot but "acknowledge as the first principle of justice one requiring an equal distribution (of all resources)," and his comment that "this principle is so obvious that we would expect it to occur to anyone immediately." What I have demonstrated here is that any egalitarian ethic such as this proposed by Rawls is not only not obvious but must be regarded instead as absurd, i.e., as self-contradictory nonsense. For if Rawls were right and all resources were indeed equally distributed, then he literally would have no leg to stand on and support him in proposing the very nonsense that he does pronounce.] Furthermore, it would be equally impossible to engage in argumentation and rely on the propositional force of one's arguments, if one were not allowed to own (exclusively control) other scarce means (besides one's body and its standing room). For if one did not have such a right, then we would all immediately perish and the problem of justifying rules — as well as any other human problem — simply would not exist. Hence, by virtue of the fact of being alive, property rights to other things must be presupposed as valid, too. No one who is alive could possibly argue otherwise. And if a person were not permitted to acquire property in these goods and spaces by means of an act of original appropriation, i.e., by establishing an objective (intersubjectively ascertainable) link between himself and a particular good and/or space prior to anyone else, but if, instead, property in such goods or spaces were granted to late-comers, then no one would be permitted to ever begin using any good unless he had previously secured such late-comers consent. Yet how can a late-comer consent to the actions of an early-comer? Moreover, every late-comer would in turn need the consent of other still later-comers, and so on. That is, neither we, nor our forefathers or our progeny would have been or will be able to survive if one were to follow this rule. However, in order for any person — past, present, or future — to argue anything it must be obviously possible to survive then and now; and in order to do just this property rights cannot be conceived of as being timeless and unspecific with respect to the number of persons concerned. Rather, property rights must necessarily be conceived of as originating by acting at definite points in time and space for definite individuals. Otherwise it would be impossible for anyone to ever say anything at a definite point in time and space and for someone else to be able to reply. Simply saying, then, that the first-user-first-owner rule of the ethics of private property can be ignored or is unjustified, implies a performative contradiction, as one's being able to say so must presuppose one's existence as an independent decision-making unit at a given point in time and space.

#### *This is also true since the right to property grounds all other rights – the right to life or to speak freely is based on your right to your body so property rights are argumentatively undeniable.*

### Moral Problem

#### Argumentative ethics is the best starting point for ethics, since a moral problem only arises once argumentation is possible

Hoppe 2 [(Hans-Hermann, distinguished fellow at the Ludwig von Mises Institute and professor of economics at the University of Nevada) “Rothbardian Ethics” May 20, 2002] AT

Suppose in my earlier scenario of Crusoe and Friday, that Friday was not the name of a man but of a gorilla. Obviously, just as Crusoe can run into conflict regarding his body and its standing room with Friday the man, so he might do so with Friday the gorilla. The gorilla might want to occupy the same space that Crusoe is already occupying. In this case, at least if the gorilla is the sort of entity that we know gorillas to be, there is in fact no rational solution to their conflict. Either the gorilla wins, and devours, crushes, or pushes Crusoe aside — that is the gorilla's solution to the problem — or Crusoe wins, and kills, beats, chases away, or tames the gorilla — that is Crusoe's solution. In this situation, one may indeed speak of moral relativism. With Alasdair MacIntyre, a prominent philosopher of the relativist persuasion, one may concur asking as the title of one of his books, Whose Justice? Which Rationality? — Crusoe's or the gorilla's. Depending on whose side one chooses, the answer will be different. However, it is more appropriate to refer to this situation as one where the question of justice and rationality simply does not arise: that is, as an extra-moral situation. The existence of Friday the gorilla poses for Crusoe merely a technical problem, not a moral one. Crusoe has no other choice but to learn how to successfully manage and control the movements of the gorilla just as he must learn to manage and control the inanimate objects of his environment. By implication, only if both parties to a conflict are capable of engaging in argumentation with one another, can one speak of a moral problem and is the question of whether or not there exists a solution meaningful. Only if Friday, regardless of his physical appearance (i.e., whether he looks like a man or like a gorilla), is capable of argumentation (even if he has shown himself to be so capable only once), can he be deemed rational and does the question whether or not a correct solution to the problem of social order exists make sense. No one can be expected to give an answer — indeed: any answer — to someone who has never raised a question or, more to the point, who has never stated his own relativistic viewpoint in the form of an argument. In that case, this "other" cannot but be regarded and treated like an animal or plant, i.e., as an extra-moral entity. Only if this other entity can in principle pause in his activity, whatever it might be, step back so to speak, and say "yes" or "no" to something one has said, do we owe this entity an answer and, accordingly, can we possibly claim that our answer is the correct one for both parties involved in a conflict.

#### Outweighs

#### It explains the conditions that must exist for “should” questions to arise which ethics must account for it or else is just grounds a norm in some other arbitrary condition that doesn’t tell us how we should act in a context where there is a conflict of interests

#### It determines the starting point of an ethical theory which outweighs other justifications since they already assume another starting point; even if their argument is completely valid it would be irrelevant absent that consideration

## Foundation of Rights

### 1NC

#### Property rights are the logical foundation of all other rights, so governments have a prima facie obligation to protect them

Cooray 13 [(Mark, doctor of Philosophy from Unv of Cambridge; author of 14 books, 65 articles in learned academic journals and over 500 articles in popular journals and newspapers) “Freedom Of The Individual And Property Rights” Ourcivilization.com 8/16] AT

At the time, I not only agreed with this line of reasoning - I still do - and thought it stated the case adequately. However, further study and reflection have led me to a somewhat different conclusion. Property rights are not just another human right; such a statement understates the case. They are much more fundamental than that. Property rights are basic to all rights. This relationship first occurred to me while studying the loss of rights in totalitarian countries. My general conclusion was that the loss of property rights either preceded or accompanied the loss of other rights. This was so in Hitler's Germany. It was so in Lenin's and Stalin's Russia. It has also been the case in other totalitarian countries. It is possible that some property rights could be retained while other rights, such as freedom of speech, freedom of press, freedom of religion, freedom of association and so on, would be severely curtailed or taken away. But it is now inconceivable to me that other rights could be maintained when property rights were gone. This suggests to me that there is a causal connection between property and other rights. The historical connection can be seen not only in countries where rights have been lost but also in countries where they were being established. For example, in England in the seventeenth and eighteenth centuries, real property was being made private and personal. At the same time, there was a movement for substantial freedom of religion. In the wake of the establishment of these came the protection of other rights. 8.2 Freedom Is Indivisible To my knowledge, no general theory has been propounded on the connection between property and other rights. True, the position has been often stated, sometimes accompanied by proofs or arguments, that freedom is indivisible. The meaning of the phrase is that you cannot pick and choose among basic liberties; you must buy the whole package or end up with none. There have also been assertions made that rights such as freedom of press are dependent upon private property. If there is no access to a printing press, the freedom to publish is empty. Statements can be found which imply the central role of property. . . . If the roads, the railways, the banks, the insurance offices, the great joint stock companies, the universities, and the public charities, were all of them branches of the government; if, in addition, the municipal corporations and local boards, with all that now devolves on them, became departments of the central administration; if the employees of all these different enterprises were appointed and paid by the government, and looked to the government for every rise in life; not all the freedom of the press and popular constitution of the legislature would make this country free otherwise than in name. John Stuart Mill, On Liberty, in Utilitarianism, Liberty and Representative Government (London, 1910) pp 112-13. While Mill here entangled the matter with distribution of power among governments, it is reasonably clear that private property is a key factor in his position. 8.3 Natural Rights In general though, little attention has been paid to the relationship among rights. The Founders of the United States tended to equate them, trace them to the same source, and worked to establish those they recognised as important rights. They were particularly concerned with those that government has been given to invading and violating. For example, Thomas Jefferson said: "There are rights which it is useless to surrender to the government and which governments have yet always been found to invade. These are the rights of thinking and publishing our thoughts by speaking or writing; the right of free commerce; the right to personal freedom" E Dumbauld, (ed) The Political Writings of Thomas Jefferson (New York, 1955) p 57. They relied upon a received theory rather than propounding new ones. They commonly referred to those rights which they accepted as natural rights. They were understood to be a gift of God, implanted in the nature of things. As Alexander Hamilton put it, "the Deity, from the relations we stand in to Himself and to each other, has constituted an eternal and immutable law...Upon this law depend the natural rights of mankind ..." R B Morris, (ed) Alexander Hamilton and the Founding of the Nation (New York, 1957) p 9. There were those who held that these rights were altered when man entered into society. The Founders did not concur in this view. Jefferson said that "the idea is unfounded that on entering into society we give up any natural right". Dumbauld, (ed) 'The Political Writings of Thomas Jefferson' op cit p 55. Hamilton declared that "Civil liberty is only natural liberty modified and secured by the sanctions of civil society". R B Morris, (ed) Alexander Hamilton and Founding of the Nation op cit, p 13. What are these natural rights? John Adams stated it this way in the Massachusetts Declaration of Rights: All men are born free and independent, and have certain natural, essential, and unalienable rights, among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness. G A Peek, Jr, (ed) 'The Political Writings of John Adams '(New York, 1954) p 96 Jefferson said: "I believe .. . that a right to property is founded in our natural wants, in the means with which we are endowed to satisfy these wants, and the right to what we acquire by those means without violating the similar rights of other sensible beings; that no one has a right to obstruct another exercising his faculties innocently for the relief of sensibilities made a part of his nature . . . " E Dumbauld (ed) 'The Political writings of Thomas Jefferson' op cit p 49. The United States Constitution along with the first ten amendments, and state constitutions of the time, provide a more complete list of what were reckoned to be the most essential rights, or the ones most likely to be interfered with. Certainly, the right to property was reckoned to be essential, as the above statements show, but the dependence of other rights on it was not made clear or elaborated. 8.4 The Socialist Concept Of Rights It was not many decades, however, before the natural rights doctrine was challenged and began to be supplanted. The utilitarians turned away from the natural law basis of rights to justifying them by the social benefits to be derived from them. Democratic theory tacitly derived rights from the desires of the people. Socialists generally denied that there was any individual right to property, at least to productive property. Democratic socialism, which became the dominant intellectual creed of the twentieth century, not only downgraded, when it did not dismiss private property rights, but also devised a host of new rights. Many of these were in conflict with the right to private property. Perhaps, the United Nations Declaration of Human Rights is the most authoritative compendium of rights to come from the democratic socialist outlook. If it is not the most authoritative, it is surely the most complete. The Declaration runs to 29 articles, and many of these have several sub-heads, which may be thought of as distinct rights. If so, we may be entitled to something like 49 rights according to this document. The right to own property is mentioned in Article 17, but no reference is made either to the right to use it or to have the fruits from it. That is understandable within the context for many of the other rights enumerated are adverse to property rights. However, many of the rights are not only in conflict with property rights but also internally inconsistent. For example, Article 26, which deals with education, declares that "Elementary education shall be compulsory". It goes on to say, however, that "Parents have a prior right to choose the kind of education that shall be given to their children". H S Commager, (ed) 'Documents of American History II ',(New York,1962) p 553. They have the right to choose, we are left to conclude, so long as they choose to have them receive an "elementary education". This brief summary of the development of ideas about rights does not begin to suggest the significance of the changes entailed. The origin of rights had shifted from natural law to society, to people, and inevitably, to government. This development not only focussed attention on the origin of rights but also introduced ideas about what are rights. In the course of it, thinking shifted farther and farther away from any conception of the property basis of rights. It will be my contention here that this almost totally obscured the means for establishing any rights. It is necessary then, to explore the property basis of rights. A good place to begin is with a definition of right. A right is something to which one is entitled by virtue of being a [hu]man (generically). Whether it be called a natural right or a human right, it must be in accord with the nature of man and the human condition. Consistency requires too, that one man's right must not diminish the rights of others. In the final analysis, a right is what is right and derives its standing from the standard of justice. It is doubtful that a complete list of rights could be contrived, for what is right comes down ultimately to equity, to a law deeper and broader than the acts of legislatures and the precedents made by the courts. Right is a matter of principle, and like all principles, it is capable of numerous applications. With that in mind, then, the relationship between property and rights can now be explored. The property basis of individual rights has at least two dimensions. One is conceptual. The other is in the effective ability to exercise rights. Conceptually, all rights are either elaborations or extensions of property rights. For example, a person has the right to order the disposition of his bodily remains after death, by will. The right to one's body is an elaboration of property rights; indeed, it may be the most basic property right. A will is written to dispose of one's property. Hence, the right to order by will what disposition shall be made of the body is an extension of the process. 8.5 Property Undergirds Rights Many rights are so closely tied to property rights that they are virtually indistinguishable from them. For example, the right to buy and sell, or more broadly, to trade freely, is a property right. It is an aspect of the ownership of property. Free speech and a free press are fundamentally property rights. We probably do not ordinarily think of them that way because we think of them as something asserted when there is an attempt to interfere with them. Such a view treats of the exception rather than the rule, and tends to mislead us as to their character. Speaking and other forms of publication are essential and valuable means of conveying information. They are, if you will, items of commerce. That is, many people are paid and even make a living from speaking, writing, and other forms of publication. That is, others want, and will pay for, the information they have to convey. Teachers, preachers, public speakers, journalists, commentators, advertisers and so on, come readily to mind. Speech is a property right in the market; others may not reproduce it without permission and can benefit from it ordinarily only by paying the price for it. Literature is a property, vouchsafed by copyright law. The value of communication is in direct proportion to its accuracy, validity, and truthfulness. To put it negatively, an utterance obtained by compulsion, by twisting the arm, for example, has value only for a masochist. On the other hand, if one is prevented from speaking the truth as he understands it by fear of compulsion, the value of his communication is diminished thereby. Free speech and a free press are the necessary conditions for securing these property values both for speakers and for audiences. 8.6 Individual Rights Are Extensions Of Property Rights There is probably no way of conceiving of individual rights other than as either property rights or extensions of property rights. Our right to life stems from the fact that it is our own (and only) life. Our right to the disposal of our time stems from the fact that it is our own time. Our right to the use of our faculties stems from the fact that they are our own. Remove from them the concept of private property and the claim to them goes as well. The concept of property is not, of course, peculiar to our age. It has probably been around approximately as long as man, and even the lower animals appear to have an instinct for it, if they cannot actually conceive it. Actually, there have been many conceptions of property. Some societies have conceived of property rights in other persons, and have established slavery. Others have conceived of property rights in the services of others, and have established serfdom. Some have so dispersed property rights that hardly anyone could be said to own anything. We appear to be bent on a course in that direction today. Property rights in some societies have been assigned to various classes. It is interesting to note in all these cases that all other rights, to the extent that they were recognized, tended to be parcelled out in much the same way as property rights. This suggests to me that our conception of rights in general is tied to our conception of property. More specifically, as I have said, it suggests that our conception of individual rights is dependent upon a conception of private property. The reason for this, I believe, is that all rights are either property rights or extensions of them. It might be possible to establish what we think of as rights to private property without establishing what we have thought of as other rights. But it is greatly to be doubted that the "other rights" could be established in the absence of rights in private property. That, as I understand it, is much like saying it would be possible to lay a foundation without building a house upon it, but one could hardly expect a roof to stand without walls to hold it up. 8.7 How Rights Are Exercised There is another reason for this connection. Private property is essential to the exercise of individual rights. To turn it around, in the absence of private property, the exercise of whatever may be proclaimed as rights will be dependent upon who controls the property. This latter principle has been well illustrated in the Soviet Union in the matter of religion. The Soviet Constitution proclaims the right to the free exercise of religion. It is very nearly an empty right, however, because churches do not have the private property to facilitate its free exercise. All schools are governmentally owned and run, and religion may not be taught in them. Most seminaries were closed and much of church property confiscated in the wake of the Revolution. (The Kremlin, once the seat of Russian Orthodoxy, now houses the government.) There is a shortage both of clergymen and of church buildings. Missionary efforts are severely circumscribed. Since productive equipment cannot be privately owned, the churches are entirely dependent upon a hostile government for Bibles, musical instruments, prayer books, song books, and other religious paraphernalia. The exercise of religion is clearly a privilege, when it can be done, not a right, in the absence of private property. The same principle has been illustrated in American schools in recent years on a much smaller scale. The First Amendment to the United States Constitution declares, in part, that "Congress shall make no law respecting an establishment of religion, or 'prohibiting the free exercise' thereof. . . " (emphasis added). The Supreme Court has prohibited various religious exercises in the public schools. These prohibitions rely upon the fact (or premise) that the public schools are governmentally owned and operated. The courts have said, in effect, that we may freely exercise our religion on private property, but not on that which is governmentally owned. Its exercise in the public schools was a privilege which has now been withdrawn. But the exercise of any right requires the use of property. Without real property, there is no place to stand, sit, lie, walk, ride, or do anything. The making of a speech requires a platform from which to speak. The publication of a book requires a printing press, of course, but much more besides. There must be a desk at which to sit or stand, pen with which to write, paper on which to write, boxes in which to place the manuscript, printing ink and paper, a store in which to display the book, and money with which to buy it. Freedom of assembly requires for its exercise a place within which to assemble. The right to the use of one's faculties depends upon property on which to use them. It is true that property often serves a humble and unobtrusive role in the affairs of men. Frequently, it has only a subordinate part to play. Most of us would agree, I think, that the soup is more important than the pot in which it is cooked, the speech more important than the platform from which it is delivered, the sermon more important than the pulpit, the painting more important than the canvas, the words more important than the paper on which they are printed, and the man more important than the ground on which he treads. From such evaluations, we may conclude that property should be downgraded, that if there is a right to it, it should be a right made subordinate to all others. We are apt to do much more than ignore the obvious when we think in this way. The obvious is that without the container we can make no soup, without a place to stand there can be no speech, without a canvas (or other backing) there can be no painting, without the paper the words cannot be assembled, and without the ground the man has no place to walk. 8.8 Use Subordinates Property We ignore something more subtle and possibly more profound than this. We ignore the fact that it is the cook who subordinates the pot with his soup, that it is the preacher who subordinates the pulpit with his sermon, that it is the artist who subordinates the canvas with his painting, that it is the writer who subordinates the paper with his composition, and that it is the man who subordinates the ground by walking upon it. Every use by man of property is a subordination of it. When a house is built upon land the land is subordinated to that purpose. The farmer who clears, plants and tills the soil subordinates it to his purpose. From these and other considerations, including a mass of historical evidence, I conclude that government as a mechanism cannot act to subordinate or downgrade the importance of property. Government as lawmaker is a mechanism. All direct efforts by government to place property in a subordinate place will tend to have the opposite effects. Let us take the extreme case for illustrative purposes. Suppose that government confiscates all property, or as much of it as is practical. This will magnify the importance of property rather than reduce it. 8.9 Property Insecure When Government Intervenes The reason for this should be apparent. Man[One]'s necessity for property is absolute; his [one’s] survival and all activities depend upon it. When government has control of it all, man's concern with it becomes preponderant for his access to it is no longer secure. Not only does it magnify the importance of property but also of government. Total control over all property becomes the means for total control over men. The law which disposes property in this situation also disposes men. Indeed, the wedding of property to government turns the control over things into control over men. What may start out as an effort to subordinate property ends up as the subordination of man. There are those who suppose that a government which has taken away the right to any significant private ownership of property could, nonetheless, confer a variety of individual rights upon the people. Indeed, there are many westerners who believe that the Soviet Union, for example, could confer freedom of speech, freedom of the press, and freedom of religion, say, on the people within its bounds. It could not do so and retain its control over all property. Above all, it could not establish these freedoms as rights. The most that a government could do would be to lay down rules or rights for access to property. To call such access a right, however, is a misnomer; it can at most be only a privilege, revocable at will, and available at the behest of those who have the power. In any case, in the absence of property, there are no means for contending with government. It is of little avail to have money in the bank, if the government owns the bank and can confiscate the funds of those who may choose to oppose it. 8.10 The Rules Of The System Government cannot create rights. It can recognise them. It can provide a legal system, within which rights can be defended. It can come to the aid of those whose rights are threatened. The property basis of rights indicates yet another role government can play, and it is a crucial role. Government can establish what property system will prevail among a people. It can determine who may own it, the extent to which it may be owned, whether and how it may be bequeathed, and so on. By the system it establishes for property, it will largely determine also what, if any, rights there can be who may enjoy them, and the distribution of them. For example, if it establishes a class system of property control, as there was in Medieval Europe, it can only establish rights as belonging to classes. If it establishes bureaucratic control over property, then such rights as there may be will belong mainly to the bureaucrats and politicians. There may be a natural right to the private ownership of property. I believe there is. It arises in this way. A person who uses his own materials, his energy and ingenuity, and his tools, to construct something is the rightful owner of it. It follows, too, that a person who contributes any of these elements to make some article of use owns that portion of it appropriate to his contribution. (That he may have agreed to the disposal of his interest for a consideration is but an elaboration of the principle). Nor do I doubt that the private ownership of land is the most effective means of securing their other property to owners, though the right to land does not arise naturally. My main point here, however, is somewhat different from this. It is that there is something like a natural law of relationships between property and other rights. This law has nothing to do with the relative value we may assign to various rights. Nor can it be altered by any determination of ours as to what rights should have pre-eminence. The law is not causal in nature; rather, it is consequential. That is, the law does not cause us to adopt any particular course of action, but it does determine the effects once the direction has been taken. Indeed, that is my understanding of all natural law as it applies to man. 8.11 All Rights Depend On Property The law may be stated in this way. All rights are dependent upon property. They are dependent upon property for their conception, their delineation, and their exercise. It follows from this that the system of property ownership will determine what rights can be effectively established within a society. Since a right cannot be firmly established unless it is tied to a property base, changes in the property system will tend to be reflected in the rights that can be exercised And the right of the individual to the ownership of private property is essential to the establishment of individual rights. Even those asserted rights which are in reality government privileges masquerading as rights depend on property. For example, the United Nations Declaration of Human Rights asserts that "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing, and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age, or other lack of livelihood in circumstances beyond his control". Food, clothing, shelter, medical care, and so on are certainly property. Thus, the "rights" named depend on property for their exercise. In these cases, however, it is the property of others that is involved rather than that of the claimants. If governments establish these "rights" they must fulfil the claims by confiscating the property of those who possess it and conferring it upon the claimants. That such action is an assault upon private property there should be no doubt. That governments which simultaneously assert the right to private property and then confiscate it to fulfil other rights have adopted contrary principles there should be no doubt. Their assertions of "rights" are in conflict with each other. But my main point is that anything which is established as a right depends on property.

### Free Speech Specific

#### Property rights are the foundation of all other rights.

Stottlemyer [(Shawn, Pennsylvania State University Dickinson School of Lawnk) “THE ROAD TO VIRTUE AN D JUSTICE IS PAVED WITH FREEDOM: MURRAY NEWTON ROTHBARD” no date] DD

Returning to rights, Rothbard grounds every human right in property rights. 27 He maintains that **no other rights are absolute unless they are grounded in property rights.** To make his point, Rothbard discusses the right to free speech. The **freedom of speech is certainly not absolute in the absence of the right to be** present **on the property from which the speech is made. For example, one does not have the right to protest a recent court decision in another person’s home.** In the public square, permits may be required, the public may stop the protest because of the distraction and litter the protest causes, or the governmen t may not like the protest message and shut it down. In none of these cases is the right to free speech absolute. **Rothbard goes on to dispel the myth that not being allowed to yell fire in a** crowded **theater is a proper restriction of free speech.** This myth was used by The United States Supreme Court to show that the restriction of free speech is sometimes necessary. Rothba rd says **it is not the speech which is punishable, but it is the violation of property rights which is punishable. If a patron** who **induces** a **panic in a** crowded **theater, the patron has violated the property right of the theater owner to hold a performance on his property and he has violated the property rights of patrons to enjoy the performance for which they paid the admission price.** If it is the theater owner who causes the panic, he has violated the property rights of the patrons from whom he accepted payment for their right to see the show . What is said, or if anything is said at all, is irrelevant to the people who have had their property rights violated. The right to publish written material is also bound by property rights. No one who is not in possession of the material, such as paper, printer, and methods of produc tion, can print a political pamphlet. Anyone can write a letter to the newspaper, but the paper has the right not to print that letter on their property. Therefore, Rothbard concludes that **any right to speech is less than absolute when ownership is not present.** “In general, those problems where rights seem to require weakening are ones where the locus of ownership is not precisely defined, in short where property rights are muddled.

### Weighing

#### Outweighs

#### It’s a precondition to the right of \_\_\_\_ assumed by the aff framework. This makes it a logical limit on your ethical theory – if their justification logically undermines the foundation for all rights, which is in turn the foundation of their justification then it is self-defeating

#### Without absolute rights agents wouldn’t be guaranteed the ability to engage in ethical decision-making, which would undermine the basis of ethics, which requires agents to theorize and follow it.

### Util Impact

#### This is also an impact to util – loss of property rights results in mass violence.

#### Prefer systemic impacts.

Rescher 83 [Nicholas Rescher, University of Pittsburgh Professor of Philosophy, “Risk: A Philosophical Introduction to the Theory of Risk Evaluation and Management” 1983].

The stakes are high, the potential benefits enormous. (And so are the costs - for instance cancer research and, in particular, the multi-million dollar gamble on interferon.) But there is no turning back the clock. The processes at issue are irreversible. Only through the shrewd deployment of science and technology can we resolve the problems that science and technology themselves have brought upon us. America seems to have backed off from its traditional entrepreneurial spirit and become a risk-aversive, slow investing economy whose (real-resource) support for technological and scientific innovation has been declining for some time. In our yearning for the risk-free society we may well create a social system that makes risk-taking innovation next to impossible. The critical thing is to have a policy that strikes a proper balance between malfunctions and missed opportunities - a balance whose "propriety" must be geared to a realistic appraisal of the hazards and opportunities at issue. Man is a creature condemned to live in a twilight zone of risk and opportunity. And so we are led back to Aaron Wildavski's thesis that flight from risk is the greatest risk of all, "because a total avoidance of risks means that society will become paralyzed, depleting its resources in preventive action, and denying future generations opportunities and technologies needed for improving the quality of life. By all means let us calculate our risks with painstaking care, and by all means let us manage them with prudent conservatism. But in life as in warfare there is truth in H. H. Frost's maxim that "every mistake in war is excusable except inactivity and refusal to take risks" (though, obviously, it is needful to discriminate between a good risk and a bad one). The price of absolute security is absolute stultification.

## Contention

### Contention

#### Thus the standard is consistency with the right to acquire and retain property. To clarify, the standard deals with an a priori right to property. Violating the property rights of some to protect the rights of others, is a violation since this would make property rights contingent on their utility for the rights of others, and would deny the requirement of an unconditional right to property that precedes any specific social arrangement that is required by the framework

#### Environmental protections conflict with property---

#### First, it involves taking property from people – also leads to backlash which turns the case

Pilon 95 [Roger- Founder and director of Cato’s Center for Constitutional Studies; “Property Rights and Environmental Protection.” 6/27/95] JL

As is evidenced by these hearings, and by bills that have been introduced in both houses of the 104th Congress, **public efforts** in recent years not only **to** better **protect the environment** but to provide all manner of other regulatory goods **have led** too often **to a clash with the legitimate expectations of property owners. As** federal, state, and local **regulations have increased** in number and scope, **property owners have** frequently **found themselves unable to use their** property and **unable to recover their losses.** Today, we have an immense problem across the nation of uncompensated **regulatory takings of private** property. One result, unfortunately, is an understandable backlash **against** legitimate environmental protection. The problem begins, therefore, with **the growth of government regulations** that **deny owners the** legitimate **use of their property.** **It should end with** the relief that **courts** might **giv**e in the form of **compensation to those owners, as required by the Fifth Amendment**’s Takings Clause. **Unfortunately, the courts** have been locked into what the Supreme Court itself has called 70-odd years of ad hoc regulatory takings jurisprudence. As a result, they **give relief in only a limited range of cases.** That means that  **property owners**, both large and small, **bear the full costs of the public goods the regulations bring about**, when in all fairness those costs should be borne by the public that orders those goods in the first place. As the voters made clear last November in race after race, the protection of property rights is a burning issue on which they want action. The time has come for Congress to address this issue, to redress the wrongs that have been imposed on individual owners by Congress itself and by countless state and local officials. To do that, Congress needs to reexamine the vast regulatory structure it has erected—largely over the course of this century— to determine whether those regulations proceed from genuine constitutional authority and whether they are consistent with the rights of the American people to regulate their own lives. But second, and more immediately, Congress needs also to breathe new life into the Fifth Amendment’s Takings Clause, making it clear to a Court too encumbered by its past that the clause means precisely what it says when it prohibits government from taking private property for public use without just compensation.

#### Second, it involves preventing people from obtaining property by original acquisition since it restricts access to unowned resources, which is part of the standard. Only prioritizing the ability of its citizens to freely extract resources is consistent with the standard.

### State Bad

#### Third, the state is inconsistent with property rights

#### The state requires taxes which is inconsistent with property rights since you don’t have a choice to comply. Instead, individuals should contract with protection agencies under their free will to be consistent with property rights

#### The state empowers itself to make choices on its citizens’ behalf, which is always bad since that gives the state limitless power to violate its citizens’ rights. Individuals making their own choices solves all the reasons the state is good without the risk of moral harm

#### The state requires laws for its existence, which also violates citizens’ freedoms and is inconsistent with the standard

## Case Interactions

### Intuition

#### This is consistent with intuition

Hoppe [(Hans-Hermann, distinguished fellow at the Ludwig von Mises Institute and professor of economics at the University of Nevada) “Rothbardian Ethics” May 20, 2002] AT

In light of widespread moral relativism, it is worthwhile to point out that this idea of original appropriation and private property as a solution to the problem of social order is in complete accordance with our moral "intuition." Isn't it simply absurd to claim that a person should not be the proper owner of his body and the places and goods that he originally, i.e., prior to anyone else, appropriates, uses and/or produces by means of his body? For who else, if not he, should be their owner? And isn't it also obvious that the overwhelming majority of people — including children and primitives — act in fact according to these rules, and do so unquestioningly and as a matter-of-course?

### Evolution

#### Evolution grounds property rights

Neary 11 [(Mukesh Eswaran, Professor of Economics at Univ of Vancouver, Senior Fellow at Bureau of Research and Economic Analysis of Development (BREAD), Associate at Theoretical Research in Economic Development; and Hugh M. Neary, Professor and Associate Director at Vancouver School of Economics) “An Economic Theory of the Evolutionary Origin of Property Rights” Canadian Economics Associa- tion Meetings, Quebec City, October 2011] AT

In this paper we propose an explanation for how the sense of ownership may have evolved in humans. We see it as an evolutionary response to a fundamentally economic problem: survival under competition for scarce resources. We suggest that natural selection contrived a sense of ownership over first possession or over the fruits of one’s action—an entrenched characteristic of the innate sense of self—in order to provide a strategic advantage in confrontation with others seeking to appropriate them. Our results show that, in the evolutionarily stable equilibrium, the value placed on the ownership of property is not the same across individuals: it depends on the role of the individual in the interaction. Specifically, a person who has either acquired first possession of a resource or has produced the output values it more highly than one who seeks to appropriate it. We show that this nuanced sense of ownership increased the incentives to undertake productive investments. The legalization of ownership is, in historic time, a relatively recent institutional contrivance for codifying and fine-tuning the problems pertaining to ownership. It is our contention that evolution has shaped this instrument, albeit more bluntly, in humans in the Pleistocene and probably much earlier. Furthermore, our results provide novel explanations for the endowment effect in the psychological literature. Furthermore, they have important implications such as the impact of Protestantism on the economic growth identified in empirical studies. One of the most fundamental axioms of the analysis of market economies is that property rights are well defined. These rights are taken to be assigned by law. One key presumption in law, which has ancient origins, is that of “first possession”, that is, the first person to lay claim to a previously unowned object acquires its ownership. A second approach is due to Locke (1689/1967) who put forward a theory that has come to be known as the labor theory of prop- erty. To him, it is the conferring of labor on an object by a person that makes it that person’s property.1 It is our contention in this paper that these legal approaches to property codify what has been inherently built into human nature by evolution. We claim that the sense of ownership of property is hardwired into the human psyche and precedes and underlies the advent of formal legal institutions. We provide a theory of how natural selection may plausibly have shaped the human sense of property rights. In a formal evolutionary model we demonstrate how it is that first possession, insofar as it provides an incumbent advantage to the claim of the possessor over an object, can lead through an evolutionary process to a hardwiring of perception such that the sense of “mine” and “yours” becomes fixed in an affective rather than a rational center of the brain. The possessor’s sense of “mine” and the non-possessor’s sense of “yours” result in the possessor being willing to expend more effort defending his claim relative to the non-possessor in a contest between them over the object. In similar vein the theory we offer provides a rationale for why effort or labor expended on an object leads to an innate psychological claim over objects as property. Again, natural selection hardwires stronger preference for the object in the person who bestowed effort than in an interloper who merely seeks to appropriate the object. As a result, when the producer and the interloper contest their claims on the object, more effort will be forthcoming from the former. Nature, in other words, has programmed humans so that producers exercise greater claim on objects they have expended labor on; equivalently, it has built in a recognition among interlopers that the producers have greater claim on their output. Insofar as the possessor’s advantages of first possession can be enhanced by the expenditure of labor, first possession and the labor expenditure reinforce each other in ownership claims.

### A Priori Ethics 1st

#### Prefer a priori norms

#### Solves infinite regress. When we look to an external authority like the AC standard, we can always question why we should act on that desire. Only a priori truths are incontestable because they aren’t based on external concerns that are subject to doubt but rather inherent truths.

#### Ethics must use universal rules rather than ones that change on empirical circumstance since otherwise it would arbitrary hold people who are moral equals to different standards

### Argumentative 1st

#### Prefer the argumentative ethics account of morality

#### Agents can only be obligated to norms they can derive themselves. For example, I can’t be expected to follow a law if the laws constantly change so that I don’t know what the law is. Only my standard allow agents to conclude that norm themselves since anything else would involve a contradiction, whereas it’s possible to draw a different conclusion than their framework from their assumptions, even if their framework is the most likely conclusion

#### Argumentative ethics is the a priori of justification

Hoppe [(Hans-Hermann, distinguished fellow at the Ludwig von Mises Institute and professor of economics at the University of Nevada) “Rothbardian Ethics” May 20, 2002] AT

This insight into the praxeological impossibility of "universal communism," as Rothbard referred to this proposal, brings me immediately to a second, alternative way of demonstrating the idea of original appropriation and private property as the only correct solution to the problem of social order. Whether or not persons have any rights and, if so, which ones, can only be decided in the course of argumentation (propositional exchange). Justification — proof, conjecture, refutation — is argumentative justification. Anyone who were to deny this proposition would become involved in a performative contradiction, because his denial would itself constitute an argument. Even an ethical relativist, then, must accept this first proposition, which has been accordingly referred to as the a priori of argumentation. From the undeniable acceptance — the axiomatic status — of this a priori of argumentation in turn two equally necessary conclusions follow. The first follows from the a priori of argumentation when there is no rational solution to the problem of conflict arising from the existence of scarcity.

### Self-Ownership 1st

#### The individual should be the main point of morality.

Stottlemyer [(Shawn, Pennsylvania State University Dickinson School of Law) “THE ROAD TO VIRTUE AN D JUSTICE IS PAVED WITH FREEDOM: MURRAY NEWTON ROTHBARD” no date] DD

Austrian Economics begins with the action axiom as the basis for economic thought. This axiom simply states that all humans act. Praxeology is the science of human action. This science begins with the following propositions. **First, all humans act purposefully.** It is from this basic starting point that Rothbard and other Austrians have deduced an entire edifice of economic truth. 1 **Any attempt to deny this principle is self-refuting, because to deny that humans act is an act in itself.** While some Austrians, such as Ludwig von Mise s, held that this is an a priori truth, Rothbard’s own position is in the Aristotelian and Thomistic tradit ion. His is an empirical position resting on reasoned generalization from the constant testimony of sense experience. **Human action is an attempt to replace a less desirable condition with a more satisfactory condition.** This is in full agreement with St. Thomas Aquinas who held that every agent acts for an end and acts for at least a perceived good. In Summa Theologica Aquinas writes, “All things contained in a genus are derived from the principle of that genus. Now the end is the principle in human operations, as the Philosopher states (Phys. ii, 9). Therefore it belongs to man to do everything for an end.” 2 **Human action is willful action; any act not arising from the will is not properly called a human action.** Similar to Aquinas, praxeology excludes non-purposeful behavior and that which is purely reflexive. That which does not act purposefully cannot properly be called human. The fact that men act by virtue of their being is indisputable and incontrovertible. It is the non-rationa l creature which acts according to instinct . Man is the sole creature which has the freedom to act against his natural inclinations, or irrationally. 3

### Turns Kant

#### Kantian theory, when extend to political philosophy, mandates a libertarian state

Otteson 9 [JAMES R. OTTESON. “Kantian Individualism and Political Libertarianism.” The Independent Review, v. 13, n. 3, Winter 2009, ISSN 1086–1653, Copyright © 2009, pp. 389–409.] AJ

Kant expressly draws this conclusion in his 1793 essay “On the Common Saying: ‘This May Be True in Theory, but It Does Not Apply in Practice’”: Right is the restriction of each individual’s freedom so that it harmonises with the freedom of everyone else (in so far as this is possible within the terms of a general law). And public right is the distinctive quality of the external laws which make this constant harmony possible. Since every restriction of freedom through the arbitrary will of another party is termed coercion, it follows that a civil constitution is a relationship among free men who are subject to coercive laws, while they retain their freedom within the general union with their fellows. (1991, 73, emphasis in original) Kant insists on the protection of a sphere of liberty for each individual to self-legislate under universalizable laws of rationality, consistent with the formulation of the cat- egorical imperative requiring the treatment of others “always at the same time as an end and never simply as a means” (1981, 36). This formulation of the categorical imperative might even logically entail the position Kant articulates about “right,” “public right,” and “freedom.” Persons do not lose their personhood when they join a civil community, so they cannot rationally endorse a state that will be destructive of that personhood; on the contrary, according to Kant, a person enters civil society rationally willing that the society will protect both his own agency and that of others. Robert B. Pippen rightly says that for Kant “political duties are a subset of moral duties” (1985, 107–42), but the argument here puts it slightly differently: political rights, or “dignities,” derive from moral rights, which for Kant are determined by one’s moral agency. Thus, the only “coercive laws” to which individuals may rationally allow themselves to be subject in civil society are those that require respect for each others’ moral agency (and provide for the punishment of infractions thereof) (see Pippen 1985, 121). When Kant comes to state his own moral justification for the state in the 1797 Metaphysics of Morals, this claim is exactly the one he makes: the state is necessary for securing the conditions of “Right”—in other words, the conditions under which persons can exercise their autonomous agency (see 1991, 132–35). Consistent with this interpretation, Kant elsewhere endorses free trade and open markets on grounds that make his concern for “harmony” in the preceding passage reminiscent of Adam Smithian invisible-hand arguments. In his 1784 essay “Idea for a Universal History with a Cosmopolitan Purpose,” Kant writes: “Individual men and even entire nations little imagine that, while they are pursuing their own ends, each in his own way and often in opposition to others, they are unwittingly guided in their advance along a course intended by nature. They are unconsciously promoting an end which, even if they knew what it was, would scarcely arouse their interest” (1991, 41). This statement is similar to Smith’s statement of the invisible-hand argument.2 Kant proceeds to endorse some of the same laissez-faire economic policies that Smith advocated—for example, in his discussion in his 1786 work “Conjectures on the Beginning of Human History” of the benefits of “mutual exchange” and in his claim that “there can be no wealth-producing activity without freedom” (1991, 230–31, emphasis in original), as well as in his claim in the 1795 Perpetual Peace that “the spirit of commerce” is motivated by people’s “mutual self-interest” and thus “cannot exist side by side with war” (1991, 114, emphasis in original).3 Finally, although Kant argues that we cannot know exactly what direction hu- man progress will take, he believes we can nevertheless be confident that mankind is progressing.4 Thus, in “Universal History” he writes: The highest purpose of nature—i.e. the development of all natural capaci- ties—can be fulfilled for mankind only in society, and nature intends that man should accomplish this, and indeed all his appointed ends, by his own efforts. This purpose can be fulfilled only in a society which has not only the greatest freedom, and therefore a continual antagonism among its members, but also the most precise specification and preservation of the limits of this freedom in order that it can co-exist with the freedom of others. The highest task which nature has set for mankind must therefore be that of establishing a society in which freedom under external laws would be combined to the greatest possible extent with irresistible force, in other words of establishing a perfectly just civil constitution. (1991, 45–46, emphasis in original) Kant’s argument in this essay runs as follows: human progress is possible, but only in conditions of a civil society whose design allows this progress; because the progress is possible only as individuals become enlightened, and individual enlightenment is in turn possible only when individuals are free from improper coercion and paternal- ism, human progress is therefore possible only under a state that defends individual freedom. Kant believes that individuals have the best chance to be happy under a limited civil government, and he therefore argues that even such a laudable goal as increasing human happiness is not a justifiable role of the state: “But the whole concept of an external right is derived entirely from the concept of freedom in the mutual external relationships of human beings, and has nothing to do with the end which all men have by nature (i.e. the aim of achieving happiness) or with the recognized means of attaining this end. And thus the latter end must on no account interfere as a determinant with the laws governing external right” (“Theory and Practice,” 1991, 73, emphasis in original). The Kantian state is hence limited on the principled grounds of respecting agency; the fact that this limitation in his view provides the conditions enabling enlightenment, progress, and ultimately happiness is a great but ancillary benefit. Thus, the positions Kant takes on nonpolitical issues would seem to suggest a libertarian political position. And Kant explicitly avows such a state. In “Universal History,” he writes: Furthermore, civil freedom can no longer be so easily infringed without disadvantage to all trades and industries, and especially to commerce, in the event of which the state’s power in its external relations will also de- cline. . . . If the citizen is deterred from seeking his personal welfare in any way he chooses which is consistent with the freedom of others, the vitality of business in general and hence also the strength of the whole are held in check. For this reason, restrictions placed upon personal activities are in- creasingly relaxed, and general freedom of religion is granted. And thus, although folly and caprice creep in at times, enlightenment gradually arises. (1991, 50–51, emphasis in original) In “Theory and Practice,” Kant writes that “the public welfare which demands first consideration lies precisely in that legal constitution which guarantees everyone his freedom within the law, so that each remains free to seek his happiness in whatever way he thinks best, so long as he does not violate the lawful freedom and rights of his fellow subjects at large” and that “[n]o-one can compel me to be happy in accordance with his conception of the welfare of others, for each may seek his happiness in whatever way he sees fit, so long as he does not infringe upon the freedom of others to pursue a similar end which can be reconciled with the freedom of everyone else within a workable general law” (1991, 80, emphasis in original, and 74). In a crucial passage in Metaphysics of Morals, Kant writes that the “Universal Principle of Right” is “‘[e]very action which by itself or by its maxim enables the freedom of each individual’s will to co-exist with the freedom of everyone else in accordance with a universal law is right.’” He concludes, “Thus the universal law of right is as follows: let your external actions be such that the free application of your will can co-exist with the freedom of everyone in accordance with a universal law” (1991, 133, emphasis in original).5 This stipulation becomes for Kant the grounding justification for the existence of a state, its raison d’être, and the reason we leave the state of nature is to secure this sphere of maximum freedom compatible with the same freedom of all others. Because this freedom must be complete, in the sense of being as full as possible given the existence of other persons who demand similar freedom, it entails that the state may—indeed, must—secure this condition of freedom, but undertake to do nothing else because any other state activities would compromise the very autonomy the state seeks to defend. Kant’s position thus outlines and implies a political philosophy that is broadly libertarian; that is, it endorses a state constructed with the sole aim of protecting its citizens against invasions of their liberty. For Kant, individuals create a state to protect their moral agency, and in doing so they consent to coercion only insofar as it is required to prevent themselves or others from impinging on their own or others’ agency. In his argument, individuals cannot rationally consent to a state that instructs them in morals, coerces virtuous behavior, commands them to trade or not, directs their pursuit of happiness, or forcibly requires them to provide for their own or others’ pursuits of happiness. And except in cases of punishment for wrongdoing,6 this severe limitation on the scope of the state’s authority must always be respected: “The rights of man must be held sacred, however great a sacrifice the ruling power may have to make. There can be no half measures here; it is no use devising hybrid solutions such as a pragmatically conditioned right halfway between right and utility. For all politics must bend the knee before right, although politics may hope in return to arrive, however slowly, at a stage of lasting brilliance” (Perpetual Peace, 1991, 125). The implication is that a Kantian state protects against invasions of freedom and does nothing else; in the absence of invasions or threats of invasions, it is inactive. Kant argues even more strongly that although frustration of a person’s ability to effect his will damages or corrupts his will if fate, bad luck, or some other impersonal source is responsible, this frustration counts as immoral disrespect if it arises from interposition by other persons. His view seems to be that a good will requires exercise and that systematic thwarting results ultimately in atrophy. On this basis, his endorse- ment of strict limits on state power is both consistent with and implied by his con- ception of individual moral agency as contained in his notion of a “person.” This endorsement is thus not a consequence of accidental features about Kant—for ex- ample, his natural disposition, his religious beliefs, or the times in which he lived (as Howard Williams suggests [1983, 194])—nor is it merely a “mirage” produced by a smattering of unconnected or misinterpreted passages (as Allen Rosen claims [1993, 197]). Rather, for Kant, moral agency both entails a minimal state and explains why he repeatedly takes a strong stance against anything beyond a minimal state.

#### Actions by the state, even for a common good, violate equal freedom. That outweighs – 3 warrants.

Otteson 9 [JAMES R. OTTESON. “Kantian Individualism and Political Libertarianism.” The Independent Review, v. 13, n. 3, Winter 2009, ISSN 1086–1653, Copyright © 2009, pp. 389–409.] AJ

A final passage, however, has Kantian state power extend yet further. Kant writes in Metaphysics of Morals, “Indirectly, i.e. in so far as he takes the duty of the people upon himself, the supreme commander has the right to impose taxes upon the people for their own preservation, e.g. for the care of the poor, for foundling hospitals and church activities, or for what are otherwise known as charitable or pious institutions” (1991, 149, emphasis in original). It seems that, here at least, a Kantian might justify a state’s requiring all of its citizens to contribute toward the support of whatever is necessary to protect everyone’s moral agency. Poor relief and charitable activities, however, cannot be supported on these grounds because such state activities violate Kant’s law of equal freedom in at least two ways. The first way involves the people to whom such aid is provided. Kant has argued that each rational being must be allowed the freedom to make his own decisions about how best to lead his own life and how to achieve happiness. This freedom presumably includes the freedom to make even poor decisions because Kant’s claim that freedom is necessary for progress to occur implies that people make and learn from their mistakes. But if the state steps in when one has made a mistake and protects him from the consequences of that mistake, as may happen in cases of state-sponsored poor relief, foundling hospitals, and so on,9 then the state robs those citizens of the opportunity for the moral progress that the law of equal freedom is supposed to protect. Such state-sponsored activities, however well intentioned and whatever good they in fact may do, seem to be instances of the kind of paternalism that Kant elsewhere repeatedly rejects. The paternalism he disallows seems especially evident in the case of state-endorsed “church activities.” The second way such state activities violate the law of equal freedom involves those whom the state calls on to provide the money, goods, and services in question. The alternative to having the state sponsor these activities is to allow them to occur (or not) according to private initiative, allowing individuals to decide on their own how much time or money to contribute, which people or charities to support, and so on. When Kant calls on the state to take over such activities, however, he is calling on the state—or the “supreme commander”—to substitute its judgment about such matters for individuals’ judgment. He thus grants to some a scope of freedom and authority that is denied to others, which would seem to violate the law of equal freedom.10 Moreover, because the people now required to provide the goods and services did not freely choose to do so—which, by hypothesis, is the case because we are not considering private provision—a Kantian might then consider the state’s requiring them to provide such support as tantamount to the state’s forcing them to labor against their will: they must work either in a way they would not have chosen or to an extent they would not have chosen or for an end they would not have chosen. But each of these possibilities again seems a violation of the law of equal freedom, which, for Kant, is unacceptable: “For a human being can never be manipulated just as a means of realizing someone else’s intentions. . . . He is protected against this by his inherent personality” (Metaphysics of Morals, 1991, 155).

### Economics

#### Rule not based on natural law is arbitrary.

Stottlemyer [(Shawn, Pennsylvania State University Dickinson School of Law) “THE ROAD TO VIRTUE AN D JUSTICE IS PAVED WITH FREEDOM: MURRAY NEWTON ROTHBARD” no date] DD

The only other way for property to be owned is the voluntary agreement to trade and sell property. The terms of sale, trade, and all action is still [are] governed by the natural law. “If, then, the natural law is discovered by reason from “the basic inclinations of human nature . . . absolute, immutable, and of universal validity for all times and places,” it follows that the natural law provides an objective set of ethical norms by which to gauge human actions at any time or place. . . . In fact, the **legal principles** of any society **can be established in three** alternate **ways: (a) by following the traditional custom of the tribe or community; (b) by obeying the arbitrary**, ad hoc **will of those who rule[rs]** the State apparatus; **or (c) by the use of man’s reason in discovering the natural law**—**in short, by slavish conformity to custom, by arbitrary whim, or by use of** man’s **reason.** These are essentially the only possible ways for establishing positive law. Here, **we** may simply **affirm that the latter method is at once the most appropriate** for man at his most nobly and fully human, and the most potentially “revolutionary” vis-à-vis any given status quo.” 3

#### Government intervention in the economy violates the natural laws of economics.

Stottlemyer [(Shawn, Pennsylvania State University Dickinson School of Law) “THE ROAD TO VIRTUE AN D JUSTICE IS PAVED WITH FREEDOM: MURRAY NEWTON ROTHBARD” no date] DD

It should now be clear that human action must take place in reality. In fact, Austrian Economics does not question the nature of reality. This school recognizes that man is pa rt of reality which exists independent of man. Mises wrote that, “From the praxeological point of view it is not possible to question the real existence of matter, of physical objects and of the external world.” 17 This external environment cannot be changed. **That which cannot be changed are the general conditions of the external environment.** For example, gravity is not a means, it is a general condition of man’s external environment. General conditions cannot be the object of man’s actions. **The fact that general conditions exist, cannot be changed, and cannot be the object of human action, is proof that an external reality independent of man’s [the] mind exists.** **Mathematical laws, physical laws, and economic laws are part of reality.** Too often man ignores the fact that economic laws are as true, valid, and ascertainable as mathematical and physical laws. **Changing, ignoring, or manipulating these laws is as absurd as ignoring gravity,** changing mathematical law from two plus two equals four to two plus two equals five, or manipulating physical law to alter E=MC squared to E=MC cubed. It is unthinkable that principles in math, physics and morality would be ignored, but to ignore economic laws, which are also rationally apprehended is to ignore reality. **Government intervention in the free market amounts to government manipulation of standard, objective, and rationally apprehended laws of nature.** Although the intentions are usually well-meaning, intervention leads to unintentional consequences. For example, the notion that everyone should receive an education is certainly noble. However, the interference in the free market supply of education inevitably leads to higher costs, poor education, and even poorer educational services. Public education, like most other public services, ignores human choice and freedom. It is not merely a “free education” that the government offers. Public education is mandatory and contains the same curriculum for all students as though they have no difference in talent, skills, and goals. Consequently, the public school system is rampant with problems such as ever- increasing taxes to pay, ever-increasing expenses, the millions of students who graduate with little or no skills needed to find gainful employment or advance to higher education, and the lack of discipline indicative of students who have no desire to attend school.

## Weighing and Extensions

### Preamble Weighing

#### [MULTIPLICITY] The multiplicity of perspectives undermines the basis of their moral theory. 3 reasons it outweighs their extrapolations

#### Key to legitimacy – if there is any chance a framework is true, it means citizens can reasonably believe in some other theory. This applies to their preclusion too – people can reasonably think of ethics in different ways which undermines its truth.

#### Even if their framework is true, people would have no motivation to accept it since they could reasonably disagree, which makes your framework meaningless – it’s substantively useless if it’s not motivational.

#### Probability – debates about philosophy have occurred for centuries – if one framework was actually true, philosophers would have resolved it centuries ago – the fact that they haven’t indicates moral knowledge is subjective so there must be some way to resolve this.

#### [QUESTIONING] The fact that their theory can always be questioned outweighs.

#### Even if their framework is true, it would have no motivational force since it could always be questioned and undermined

#### It means there is literally no warrant for their framework – if it relies on unwarranted assumptions then it can’t be justified. For example, if we started from an assumption of inequality then theories that required discrimination would follow – lack of proven assumptions means you cannot accept their theory

### Absolute

#### Property must be absolute

#### Allowing some violations of property rights allows relentless despotism

Blackstone 1765 [William- English jurist, judge and Tory politician, “Commentaries on the Laws of England: A Facsimile of the First Edition of 1765--1769.” 1765]

The third **absolute right,** inherent in every Englishman, **is** that of **property: which consists in the free use**, enjoyment, **and disposal of all his acquisitions, without** any control or diminution, save only by the laws of the land. **The original of private property is** probably **founded in nature**, as will be more fully explained in the second book of the ensuing commentaries: but certainly the modifications under which we at present find it, the method of conserving it in the present owner, and of translating it from man to man, are entirely derived from society; and are some of those civil advantages, in exchange for which every individual has resigned a part of his natural liberty. The **laws** of England **are** therefore, in point of honor and justice, **extremely watchful in ascertaining and protecting this right.** Upon this principle the great charter has declared that **no [one] free**man **shall be** disseised, or **divested,** of his freehold, or **of his liberties, or free customs**, but by the judgment of his peers, or by the law of the land. And by a variety of ancient statutes it is enacted, that **no [one’s]** man's **lands or goods shall be seized into the king's hands,** against the great charter, and the law of the land; **and that no [one]**man shall be disinherited, nor **put out of his franchises or freehold**, unless he be duly brought to answer, and be forejudged by course of law; **and if anything be done to the contrary, it shall be redressed, and holden for none.** So great moreover is the regard of **the law for private property**, that it **will not authorize the least violation of it**; no, **not even for the general good of the whole community**. If a new road, for instance, were to be made through the grounds of a private person, it might perhaps be extensively beneficial to the public; but **the law permits no[one]** man, or set of men, to **do [anything]** this **without consent of the owner of the land.** In vain may it be urged, that the good of the individual ought to yield to that of the community; for it would be dangerous to allow any[one] private man, or even any public tribunal, to be the judge of this common good, and to decide whether it be expedient or no. Besides, **the public good is** in nothing more essentially **interested,** than **in the protection of every individual's private rights,** as modelled by the municipal law. In this, and similar cases the **legislature** alone **can**, and indeed frequently does, **interpose,** and compel the individual to acquiesce. But how does it interpose and compel? **[But] Not by** absolutely **stripping the subject of [their]** his **property in an arbitrary manner; but by giving** him **a full indemnification and equivalent for the injury thereby sustained.** The public is now considered as an individual, treating with an individual for an exchange. All that the legislature does is to oblige the owner to alienate his possessions for a reasonable price; and even this is an exertion of power, which the legislature indulges with caution, and which nothing but the legislature can perform.

#### Proactive obligations to prevent violations is a performative contradiction since it would imply you have an infinite obligation to protect property at all times, which would mean you don’t have a right to argue since it would trade off with fulfilling that obligation

#### Only a priori, uncontestable norms can solve infinite regress. When we look to an external authority, we can always question why we should act on it. A priori truths aren’t based on external, empirical concerns that are subject to doubt but rather inherent truths so ethics should ignore contingent social factors.

#### Ethics must use universal rules rather than ones that change on empirical circumstance since otherwise it would arbitrary hold people who are moral equals to different standards, so rights can’t be contingent on future rights or social utility, but must be absolute guarantees.

### Can’t Aggregate Property

#### Collective ends cannot override individual property rights since they are only meaningful through their individual members

Stottlemyer [(Shawn, Pennsylvania State University Dickinson School of Law) “THE ROAD TO VIRTUE AN D JUSTICE IS PAVED WITH FREEDOM: MURRAY NEWTON ROTHBARD” no date] DD

Secondly, **only individuals have ends.** Collectives or **groups have no independent existence aside from the actions of their individual members.** 4 Only individuals have needs, desires, and ends for which they can act. Groups, whether public such as a government, or private such as a corporation, become meaningful only through the influencing actions of their individual members. When a software company is said to lower prices, it is not Microsoft which decides to lower the prices. The lowering of the prices is a decision made by individuals who after consideration decided it was a more satisfactory condition for them to have the price of their product lower than it was previously. The same is true for government. A government’s action, and existence, is only meaningful because an individual, or individuals, have decided to act. The United States did not just invade Iraq. The invasion was the result of individual choice in the halls of Congress and the Office of The Presidency. **If it were possible for collectives to have ends, there could be no difference of opinion in any group. Every member of a collective would have to be in lockstep agreement with all other members of the group. This is clearly not the case.** All members of the Republican Party do not agree on everything which is part of the Republican platform. All union members do not agree with one another when it comes time to vote for a new contract or to go on strike. The votes cast by Republicans and union members are the result of an individual act designated by individuals as the best decision for them individually. Consequently, there can be no such thing as an end of the collective which does not take place as the action by a specific individual or individuals. 5

### 2NR Axioms 1st

#### Prefer the axioms account of morality – since other theories aren’t absolute, they necessarily fail since

#### the multiplicity of moral perspectives and theories of knowledge means any ethical justification is suspect and therefore cannot ground our obligations since it can reasonably be questioned by someone who disagrees with it even if it is more likely to be true. And

#### Other groundings can be questioned until proven to rely on assumptions that can’t be proven, and that we believe only by chance, which cannot be the foundation of a moral theory because that would undermine the universally action-guiding nature of morality

#### It means there is literally no warrant for their framework – if it relies on unwarranted assumptions then it can’t be justified. For example, if we started from an assumption of inequality then theories that required discrimination would follow – lack of proven assumptions means you cannot accept their theory

### 2NR Motivationalism 1st

#### Extend that this theory is the most motivational since performative contradfiction establishes

#### Having an ethical theory that’s motivational to rational agents is the foremost requirement of an ethical theory

#### An unmotivational theory is literally useless since if it can’t appeal to rational agents then it has no ability to actually guide action, which the ultimate purpose of an ethical theory. An ethical theory that didn’t motivate people would have zero real-world relevance and should be rejected

#### Motivation is the starting point of an ethical theory since it’s impossible to speak of an absolute truth since the very concept of truth is a human construct, and since no one can occupy a position that would allow them to know absolute truth. Instead, an ethical theory’s truth is determined by how acceptable it is to moral agents rather than its validity as disconnected from individuals

## Frontlines

### A2 Non-Unique b/c State Exists

#### The standard requires absolute rejection of property violations in every circumstance. Even if there are few property rights now, another violation is still a contradiction

#### The standard isn’t consequentialism. The quantity of violations in either world is irrelevant; instead you should never allow additional violations of property rights.

#### There’s not a terminal impact so there’s no impact that the non-unique can take out. This is irrelevant.

#### Property rights can exist with the state – the state just provides assurance that our property is protected. The existence of a state doesn’t always require the total eradication of property rights, even though it might limit it, so it isn’t non-unique

### A2 Doesn’t Apply to Govs

#### Government is just an aggregation of individuals so it must have the same obligations as individuals

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#### Ethical theories still have to be argued by an agent so they still have to avoid a performative contradiction from the perspective of individual agents, so the question of government action is irrelevant.

#### This just establishes a right that all ethical theories must have. It’s still a contradiction to say that the right to property can be violated, regardless of whether the actor is a government or an individual, since it would still undermine the requirements for argument.

### A2 Life First

#### The framework is what is logical prerequisite to argumentation, not maximizing life. This just implies you have a right to be alive, not that you should prevent deaths

#### Doesn’t create an obligation to actively prevent violations of life since that doesn’t follow from the framework – instead it means the government can’t take people’s property or lives

Read all the absolutes stuff above, under weighing and extensions.

### A2 Intuitions

#### These shift all the time so argumentative ethics are better

#### Intuitions are an awful starting point for morality since they are irrational and often destructive. For example, people thought slavery was intuitive 200 years ago.

#### At best their arguments prove intutions are a side constraint on an ethical theory – but they are not a good starting point

#### Just accepting our intuitions allows backwards thinking to continue – the approach of self-questioning allows norms to shift. For example most people start with the intuition that animals aren’t equal to humans, that gender is binary and that males should be masculine, etc – but these intuitions, when questioned, have no logical basis and questioning them opens new possibilities for anti-oppressive thinking